

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TIMOTHY STENDER
Claimant

CATHOLIC HEALTH INITIATIVES - IOWA
Employer

APPEAL 20A-UI-12647-ED-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 4/26/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the October 5, 2020 (reference 01) unemployment insurance decision that found claimant was ineligible for unemployment benefits. The parties were properly notified of the hearing. A telephone hearing was held on December 11, 2020 at 9:00 AM. The claimant, Timothy Stender, participated personally. Jackson Paulson participated on behalf of the claimant. The employer did not participate.

ISSUE:

Is the claimant able to work and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The facts in this matter are undisputed. Claimant was employed full-time for this employer as a laundry aide. Claimant's immediate supervisor was Richard Anges.

Beginning April 26, 2020, claimant's doctor directed claimant to stay home from work for a non-work related illness. His doctor has not released him back to work. Claimant intends to return to work when he is released by his doctor. Claimant is still employed with this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able to and available for work effective April 26, 2020.

Iowa Code § 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in

§ 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

To be able to work, "[a]n individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood." *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1). "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides." *Sierra* at 723. The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that "[i]nsofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

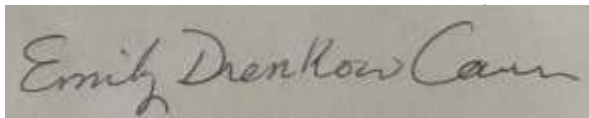
IAC 871-24.23(96) Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

24.23(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Because the claimant's doctor directed him not to go to work due to a medical condition and the treating physician has not released the claimant to return to work, he has not established his ability to work.

DECISION:

The October 5, 2020 (reference 01) unemployment insurance decision is affirmed. The Benefits are denied.



Emily Drenkow Carr
Administrative Law Judge

December 18, 2020
Decision Dated and Mailed

ed/scn