

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MILDRED I NYSTEL**  
Claimant

**KWIK TRIP INC**  
Employer

**APPEAL 20R-UI-10012-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20**  
**Claimant: Appellant (4R)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Availability Disqualifications  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
PL 116-136, Sec. 2104(b) – Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 4, 2020, (reference 01) unemployment insurance decision that denied benefits based on claimant's availability for work. The parties were properly notified about the hearing. A telephone hearing was held on October 1, 2020. Claimant participated. Employer participated through store leader Barbra Strong.

**ISSUES:**

Is the claimant able to and available for work?  
Is the claimant on a voluntary leave of absence?  
Was the claimant overpaid unemployment insurance benefits?  
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on May 20, 2015. Claimant works for employer as a part-time bakery employee.

In March 2020, the United States declared a public health emergency due to the COVID 19 pandemic. Claimant's six-year-old granddaughter lives with her and she needed childcare for her granddaughter after school was cancelled. Claimant's older sister also lives with her and has lung issues. Claimant took an unpaid leave of absence from April 14, 2020, through May 28, 2020.

Claimant returned to work at reduced hours on approximately May 29, 2020, and has continued to file weekly continued claims for benefits since that time. Iowa Workforce Development has not issued an initial decision on whether claimant is eligible for partial unemployment insurance benefits from May 29, 2020, going forward.

Claimant has received regular, state funded unemployment insurance benefits, Federal Pandemic Unemployment Compensation (FPUC) benefits, and Lost Wage Assistance since filing this claim with an effective date of April 5, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 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 section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 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 section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(10) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

In this case, claimant was on a leave of absence from April 14, 2020, through May 28, 2020, and was limiting her availability for work due to childcare needs and needing to limit her exposure to COVID 19. In order to be eligible for regular unemployment insurance benefits, claimant must be able to and available for work. In this case, she was not and therefore REGULAR unemployment insurance benefits are denied during this time period.

The administrative law judge will not address the issue of whether claimant was overpaid benefits at this time, because there is a possibility claimant is eligible for Pandemic Unemployment Assistance benefits, and in that case, will have not been overpaid benefits during the time frame in question. Claimant MUST apply for those benefits in order to be eligible. The instructions are below.

**DECISION:**

The June 4, 2020, (reference 01) unemployment insurance decision is affirmed. Claimant is not eligible for REGULAR unemployment insurance benefits effective from April 5, 2020, until May 28, 2020. Claimant may be eligible for PUA benefits and should follow the instructions in the paragraph below to apply for those benefits.

**REMAND:**

This matter is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision on the issues of whether claimant is eligible for partial unemployment effective May 29, 2020, and the issue of whether claimant has been overpaid regular unemployment insurance benefits, FPUC benefits, and LWA benefits.



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Christine A. Louis  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

October 5, 2020

Decision Dated and Mailed

cal/sam

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If you do not apply for and are not approved for PUA benefits, you may have an overpayment that you will be required to repay.