

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ATHENA R SPELLER
Claimant

APPEAL NO. 20A-UI-05209-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

KWIK TRIP INC
Employer

OC: 03/29/20
Claimant: Appellant (1)

Iowa Admin. Code ch. 871 r. 24.23(10) – Leave of Absence
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 29, 2020 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on June 30, 2020. Claimant participated personally. Employer participated by Randall Klang. Claimant's exhibits A-B were admitted into evidence.

ISSUE:

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant works as a part time clerk for employer. Claimant returned from a trip to Virginia on March 29, 2020 and was asked to go into self quarantine by employer. Before claimant could return to work, she spoke with her doctor who explained that as a result of claimant being at high risk for serious Covid complications, that she should not be working. Claimant continues to be at high risk and continues not to work. Employer has work available for claimant should she be able to return.

Claimant has received state unemployment benefits in this matter of \$2,568.00.

Claimant has received Federal Pandemic Unemployment Compensation in this matter of \$4,800.00.

REASONING AND CONCLUSIONS OF LAW:

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.

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. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An 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.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(35) provides:

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

(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.

The claimant has not established the ability to work although work is available for her. Benefits are withheld until such time as the claimant obtains a full medical release to return to work.

Claimant has received state unemployment benefits in this matter of \$2,568.00. Said benefits are overpayments.

Claimant has received Federal Pandemic Unemployment Compensation in this matter of \$4,800.00. Claimant is not eligible for those benefits.

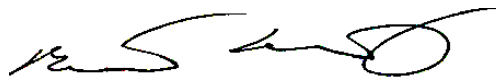
Note to Claimant: Even though claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. **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>.

DECISION:

The decision of the representative dated May 29, 2020, reference 01 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective March 29, 2020.

Claimant has received state unemployment benefits in this matter of \$2,568.00. Said benefits are overpayments.

Claimant has received Federal Pandemic Unemployment Compensation in this matter of \$4,800.00. Claimant is not eligible for those benefits.



Blair A. Bennett
Administrative Law Judge

July 10, 2020
Decision Dated and Mailed

bab/mh