

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**FREWEYNI A GEDEY**  
Claimant

**TPI IOWA LLC**  
Employer

**APPEAL 21A-UI-05324-ED-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/20/2020**  
**Claimant: Appellant (1)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence

**STATEMENT OF THE CASE:**

On February 9, 2021, the claimant filed an appeal from the February 3, 2021 (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was on a voluntary leave of absence, and failed to return to work. The parties were properly notified of the hearing. A telephonic hearing was held on April 21, 2021. The claimant, Freweyni Gedey, participated personally. The employer TPI Iowa LLC participated through Danielle Williams. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Was the claimant able to and available for work?  
Was the claimant on a voluntary leave of absence?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began her employment with the employer on December 3, 2018, and worked second shift, the same shift as her husband. Claimant went on a voluntary leave of absence to have a baby. When she was ready to return to work claimant did not have access to childcare due to the pandemic. She requested to change shifts so that she would not be on the same shift as her husband. There were no positions open for which she was qualified. Claimant's last day worked was in August. Claimant failed to return to work following her leave of absence.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was not able to and available for work. Benefits are denied.

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:

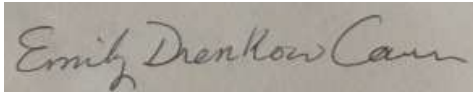
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(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.

Here, claimant requested and was granted a leave of absence to have a baby. When she was ready to return to work she did not have access to childcare due to the pandemic. The employer had work available for the claimant. Claimant failed to return from her voluntary leave of absence. Benefits are denied.

**DECISION:**

The February 3, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant was not able to work and available for work. Benefits are denied.



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Emily Drenkow Carr  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

April 29, 2021  
Decision Dated and Mailed

ed/kmj

NOTE TO CLAIMANT: You may find additional information about food, housing, and other resources by dialing 211 or at <https://dhs.iowa.gov/node/3250>

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**