

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MARY E RICHTER
Claimant

CASEYS MARKETING COMPANY
Employer

APPEAL 21A-UI-01606-AD-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 03/29/20
Claimant: Appellant (3)

Iowa Code § 96.4(3) – Eligibility – A&A – Able to, available for, work search

STATEMENT OF THE CASE:

On December 21, 2020, Mary Richter (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated December 15, 2020 (reference 01) that denied benefits as of October 4, 2020 based on a finding claimant was still employed for the same hours and wages as in the contract of hire.

A telephone hearing was held on February 23, 2021. The parties were properly notified of the hearing. Claimant participated personally. Casey's Marketing Company (employer/respondent) did not register a number for the hearing and did not participate.

Claimant's exhibits 1-4 were admitted. Official notice was taken of the administrative record.

ISSUE(S):

- I. Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer on July 24, 2017. Claimant is still employed by employer. Claimant is employed part-time as a store employee. Throughout her employment claimant has limited her availability to approximately 20 hours per week so as not to adversely affect her receipt of Social Security benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated December 15, 2020 (reference 01) that denied benefits as of October 4, 2020 based on a finding claimant was still employed for the same hours and wages as in the contract of hire is MODIFIED in favor of respondent. Claimant does not meet the availability requirements to be eligible for benefits. Benefits are therefore denied effective March 29, 2020.

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(22) provides:

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

(22) Where a claimant does not want to earn enough wages during the year to adversely affect receipt of federal old-age benefits (social security).

Throughout her employment claimant has limited her availability to approximately 20 hours per week so as not to adversely affect her receipt of Social Security benefits. Because claimant has limited availability for work, she does not meet the availability requirements to be eligible for benefits. Benefits must therefore be denied from the original claim date and continuing.

DECISION:

The decision dated December 15, 2020 (reference 01) that denied benefits as of October 4, 2020 based on a finding claimant was still employed for the same hours and wages as in the contract of hire is MODIFIED in favor of respondent. Claimant does not meet the availability requirements to be eligible for benefits. Benefits are therefore denied effective March 29, 2020.



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

March 4, 2021
Decision Dated and Mailed

abd/kmj

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.