

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LUCILLE E MOONEY
Claimant

BIG LOTS STORES INC
Employer

APPEAL 21A-UI-06197-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/30/20
Claimant: Appellant (1)

Iowa Admin. Code r. 871-24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

On February 17, 2021, Lucille Mooney (claimant/appellant) filed an appeal from the February 9, 2021 (reference 01) unemployment insurance decision that denied benefits as of August 30, 2020 based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was held on May 6, 2021. The parties were properly notified of the hearing. The claimant participated personally. Her daughter, Sheila Mooney, participated as a witness for claimant. Big Lots Stores Inc. (employer/respondent) did not register a number for the hearing and did not participate.

Claimant's Exhibits 1-3 were admitted. Official notice was taken of the administrative record.

ISSUES:

Is the claimant on an approved leave of absence?

FINDINGS OF FACT:

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

Claimant's first day of employment was October 12, 1999. Claimant was employed full-time as a cashier. Claimant's doctor held her out of work beginning in April 2020 because her health conditions put her at an increased risk for COVID-19. Her doctor continued to hold her out of work for this reason until April 26, 2021. Claimant kept employer apprised of her status during this time and medical leave forms were completed by her physician.

Claimant returned to work part-time for a few days beginning on this date. However, her health conditions made it very difficult for to wear a face covering and so she ultimately resigned on May 2, 2021.

Claimant filed a claim for benefits each week from the benefit week ending September 5, 2020 through the benefit week ending April 17, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the February 9, 2021 (reference 01) unemployment insurance decision that denied benefits as of August 30, 2020 based on a finding claimant requested and was granted a leave of absence is AFFIRMED.

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.

Claimant requested and was granted a medical leave of absence beginning in April 2020 and continuing through the last week she filed for benefits. In doing so, claimant made herself unavailable for work during this time. Claimant is therefore not eligible for benefits during this period.

While this decision denies regular, state benefits, the evidence indicates claimant may be eligible for federal Pandemic Unemployment Assistance (PUA). Further information on PUA, including how to apply, is set forth below.

DECISION:

The February 9, 2021 (reference 01) unemployment insurance decision that denied benefits as of August 30, 2020 based on a finding claimant requested and was granted a leave of absence is AFFIRMED.



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

May 18, 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>.