

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SARAH R KARNGBAYE
Claimant

IMMANUEL
Employer

APPEAL 21A-UI-14672-AD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/23/21
Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

On June 28, 2021, Sarah Karngbaye (claimant/appellant) filed a timely appeal from the Iowa Workforce Development decision dated June 22, 2021 (reference 01) that denied benefits as of May 23, 2021 based on a finding claimant was unduly limiting her availability for work.

A telephone hearing was held on August 23, 2021. The parties were properly notified of the hearing. Claimant participated personally. Immanuel (employer/respondent) participated by HR Business Partner Danielle Richardson and was represented by Hearing Rep. Alyce Smolsky.

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 November 2, 2018. She was hired as a full-time server. Claimant is still employed by employer but in a PRN or as-needed server position.

Claimant requested to be off for an extended period beginning March 30, 2021 with a return date of May 1, 2021. Claimant requested the time off to attend to family matters outside of the country. Employer told claimant it could not hold her position open for an extended period of time and her options were to change to PRN or as-needed status or separate and reapply when she returned. Claimant chose to move to PRN or as-needed status.

Claimant ended up returning to work on April 21, 2021. Claimant understood that upon her return there would be fewer hours available for initially but that her prior position may again become available. However, claimant's prior position did not become available and so she continued in the PRN or as-needed position.

Claimant filed a claim for benefits each week from the benefit week ending May 29, 2021 and continuing through the week ending August 21, 2021. Claimant reported her wages earned each week when filing. Claimant has been able to and available for work during each week filed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated June 22, 2021 (reference 01) that denied benefits as of May 23, 2021 based on a finding claimant was unduly limiting her availability for work is MODIFIED in favor of appellant. She is eligible as set forth below. Employer's account shall not be charged.

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 Code section 96.7(2)a(2) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

The administrative law judge finds claimant is able to and available for work in each week filed and therefore eligible for benefits. However, because claimant was still working for employer in the same PRN or as-needed capacity during the weeks filed, employer shall not be charged for benefits paid.

The administrative law judge notes that there appears to have been some confusion or miscommunication between the parties about the availability of work with employer during the weeks filed. Employer indicated there is additional work available to claimant. Claimant is cautioned that failure to make herself available for additional work - with employer or otherwise - may impact her eligibility for benefits in the future.

DECISION:

The decision dated June 22, 2021 (reference 01) that denied benefits as of May 23, 2021 based on a finding claimant was unduly limiting her availability for work is MODIFIED in favor of appellant. She is eligible as set forth above. Employer's account shall not be charged.



Andrew B. Duffelmeyer
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September 1, 2021
Decision Dated and Mailed

abd/scn