

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

BIANCA L PULLIAM

Claimant

APPEAL 20A-UI-06331-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC

Employer

OC: 09/15/19

Claimant: Appellant (2)

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

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

Bianca Pulliam (claimant/appellant) filed an appeal from the June 17, 2020 (reference 02) unemployment insurance decision that denied benefits.

A telephone hearing was held on July 22, 2020. The parties were properly notified of the hearing. The claimant participated personally. Tyson Fresh Meats Inc. (employer/respondent) participated by HR Administrator Lori Direnzo.

Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to and available for work?

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 worked for employer as a full-time production worker. Claimant's first day of employment was December 16, 2019. The last day claimant worked on the job was May 19, 2020. Claimant separated from employment on July 7, 2020.

Claimant informed employer on May 20, 2020 that her daughter had tested positive for coronavirus and inquired whether she should come to work. A nurse in employer's health department told her not to come in until she had a release from a doctor. Claimant followed that direction and stayed home. She continued to call in during this time to report her absences.

Employer sent claimant a letter dated June 25, 2020, informing her it had not received documentation regarding her leave of absence and to return the requested documentation by July 1, 2020, if she wished to stay on the payroll. Employer wanted a release from claimant's daughter's doctor. Claimant was confused as to why employer wished to have a release from her daughter's doctor. Claimant communicated to employer that she was able and willing to work and she was not ill but employer insisted on a release.

Claimant was unable to get a release from her daughter's doctor. Claimant's daughter is an adult and so claimant had no way to get that documentation directly. There was also some confusion with her daughter's medical providers about who could or would provide a release.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the June 17, 2020 (reference 02) unemployment insurance decision that denied benefits is REVERSED. Claimant was not on a voluntary leave of absence and is able to and available for work effective April 19, 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(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's leave and resulting period of unemployment was imposed by employer. She did not request it and she was able to and available for work during the time she was placed on leave and following it. She did not return to work because employer would not allow her to return until she obtained a release from her daughter's doctor. This is puzzling, given claimant's daughter was not an employee of employer and claimant had told employer she had no symptoms and was ready and able to work. Claimant had no control over getting a medical release from her daughter's doctors, as her daughter is an adult.

DECISION:

The June 17, 2020 (reference 02) unemployment insurance decision that denied benefits is REVERSED. Claimant was not on a voluntary leave of absence and is able to and available for work effective April 19, 2020. Benefits are allowed.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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July 29, 2020
Decision Dated and Mailed

abd/scn