

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ANNA T HERNANDEZ
Claimant

CARE INITIATIVES
Employer

APPEAL NO. 20A-UI-10802-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/21/20
Claimant: Appellant (1)

Iowa Admin. Code ch. 871 r. 24.23(10) – Leave of Absence
Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated August 26, 2020 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on October 21, 2020. Claimant participated personally. Employer participated by hearing representative Alyce Smolsky and witness Charissa Baedke. Claimant's Exhibits A-C were admitted into evidence.

ISSUE:

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant works as a PRN nurse for employer. In this job, claimant gets to choose the hours that she will work from those that are offered by employer, as she has no set schedule.

On or around June 14, 2020 claimant attended a social event. Claimant had direct contact with a person at the event who was found to have Covid. Claimant told employer of this encounter on June 17, 2020. Claimant took a test that day which was negative for Covid. Claimant told employer of her direct contact with a person who had Covid, and employer asked that claimant quarantine from work for two weeks. On or around June 23, 2020 claimant took another Covid test prior to a family trip and was found to be positive. Employer extended claimant's time off from work for two weeks from that date.

REASONING AND CONCLUSIONS OF LAW:

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.

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".

Inasmuch as the illness was not work-related, the claimant has not established the ability to work around high risk individuals from June 17 through July 8, 2020. Benefits are denied for that period.

Note to Claimant: Even though claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The decision of the representative dated August 26, 2020, reference 01 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective June 17-July 8, 2020.



Blair A. Bennett
Administrative Law Judge

October 23, 2020
Decision Dated and Mailed

bab/sam