

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GIOVANNI LOPEZ

Claimant

APPEAL 20A-UI-09744-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS LLC

Employer

OC: 04/05/20

Claimant: Appellant (1R)

Iowa Code § 96.4-3 – Able and Available
871 IAC 24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

Giovanni Lopez (claimant) appealed a representative's August 11, 2020, decision (reference 02) that concluded ineligibility to receive unemployment insurance benefits as of April 5, 2020, because a leave of absence was granted by West Liberty Foods (employer) at the claimant's request. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 6, 2020. The claimant participated personally through Interpreter Javier. The employer participated by Karyn Goldensoph, Human Resources Supervisor.

The claimant offered and Exhibit A was received into evidence. The administrative law judge took official notice of the administrative file.

ISSUE:

The issue is whether the claimant is available for work and whether the claimant was 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 that: The claimant was hired on March 10, 2014, as a full-time quality assurance lab technician. The employer had policies with regard to the coronavirus. Any employee who traveled outside the state of Iowa had to quarantine for two weeks before returning to work. Any employee who was exposed to the virus had to quarantine for two weeks before returning to work. The claimant knew the policies.

The claimant transported family members to Chicago, Illinois. He self-quarantined from April 6, 2020, through April 17, 2020, and the employer paid him approximately \$329.00 per week. The claimant was exposed to the coronavirus and provided a doctor's note to the employer. He self-quarantined from April 20, 2020, through May 1, 2020, and the employer paid him approximately \$329.00 per week.

The claimant did not have childcare from May 4, 2020, through June 3, 2020. The employer allowed the claimant a leave of absence but did not pay him any wages. The claimant returned to work on or about June 4, 2020.

The claimant filed for unemployment insurance benefits with an effective date of April 5, 2020. His weekly benefit amount was determined to be \$500.00. The claimant received benefits from April 5, 2020, to the week ending June 13, 2020, for a total of \$4,448.00 in state unemployment insurance benefits after the separation from employment. He also received \$6,000.00 in Federal Pandemic Unemployment Compensation for the ten-week period ending June 13, 2020. The claimant did not report any wages to the agency when he filed his weekly claims.

REASONING AND CONCLUSIONS OF LAW:

Iowa Admin. Code r. 871-24.23(1), (8), (10), and (23) provide:

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

- (1) An individual who is ill and presently not able to perform work due to illness.
- (8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.
- (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.
- (23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When employees are unable to perform work due to a medical condition, they are considered to be unavailable for work. To prevent the spread of a deadly virus, the employer removed the claimant from the workplace for two two-week periods. Knowing the employer's policy regarding quarantine after travel out of state, the claimant traveled out of Iowa. In addition, the claimant had been in contact with a person who was diagnosed with Covid-19. The employer granted the claimant a leave of absence and paid him fifty-percent of his wages. He was not able and available for work during the four-week period ending May 2, 2020. The claimant is disqualified from receiving unemployment insurance benefits from April 5, 2020, through May 2, 2020.

When an employee is spending working hours caring for children, he is considered to be unavailable for work. The claimant did not have childcare from May 4, 2020, through June 3, 2020. He is considered to be unavailable for work from May 3, 2020, through June 6, 2020.

The claimant was working full-time for the employer as of June 4, 2020. The claimant is disqualified from receiving unemployment insurance benefits because the claimant was not available for other work after June 4, 2020. Benefits are denied as of April 5, 2020.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he 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. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

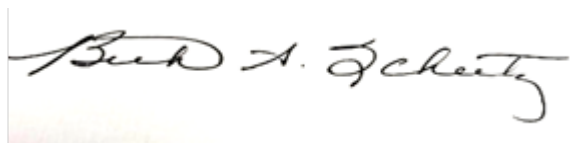
The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

DECISION:

The representative's August 11, 2020, decision (reference 02) is affirmed. The claimant is considered to be unavailable for work and is not eligible to receive unemployment insurance benefits from April 5, 2020.

The issue of whether claimant has been overpaid unemployment insurance benefits and Federal Pandemic Unemployment Compensation is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently 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 under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.



Beth A. Scheetz
Administrative Law Judge

October 8, 2020
Decision Dated and Mailed

bas/scn