

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

**BAILEY MERSCHMAN**  
Claimant

**APPEAL NO: 20A-UI-06788-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALDI INC**  
Employer

**OC: 04/12/20**  
**Claimant: Appellant (1)**

871 IAC 24.23(10) – Leave of Absence  
Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the June 17, 2020, reference 01 decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 29, 2020. The claimant participated in the hearing. Lindsay Randklev, District Manager and Ted Valencia, Employer's Representative, participated in the hearing on behalf of the employer.

**ISSUE:**

The issues are whether the claimant was able and available for work and whether claimant was on a leave of absence.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant requested and was given a leave of absence because he was not comfortable working during COVID-19. The claimant was working in the Coralville store until March 13, 2020, when he told the store manager he was uncomfortable working. He moved home to Fort Madison in March 2020 and told the employer he might be able to return in June 2020. The claimant resumed working in the Burlington store June 1, 2020.

The claimant has not received regular unemployment insurance benefits or Federal Pandemic Unemployment Compensation.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was not able and available for work and did take a leave of absence.

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.

The claimant requested and was given a leave of absence because he was uncomfortable working during COVID-19. He has not demonstrated that he was able and available for work between March 9 and May 31, 2020. Accordingly, benefits must be denied.

**DECISION:**

The June 17, 2020, reference 01, decision is affirmed. The claimant is not able to work and available for work effective April 12, 2020. Benefits are withheld until such time as the claimant makes himself available for work to the extent he was available during the base period history and the employer has no suitable or comparable work available.



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Julie Elder  
Administrative Law Judge

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August 6, 2020  
Decision Dated and Mailed

je/sam

*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>.