

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LEAH A HARRIS
Claimant

MENARD INC
Employer

APPEAL NO. 20A-UI-08993-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Availability Disqualifications

STATEMENT OF THE CASE:

Leah Harris filed a timely appeal from the July 16, 2020, reference 01, decision that denied benefits effective March 22, 2020, based on the deputy's conclusion that Ms. Harris requested and was approved for a leave of absence, was voluntarily unemployed, and was not available for work. After due notice was issued, a hearing was held on October 7, 2020. Ms. Harris participated. Krystal Boege represented the employer. Exhibits 1, 2, 3 and A were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO and KPYX.

ISSUES:

Whether Ms. Harris was able to work and available for work within the meaning of the law during the period of March 22, 2020 through April 25, 2020.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Leah Harris is employed by Menard, Inc. on a full-time basis. During the relevant period, Ms. Harris was a full-time Garden Center sales associate and her wage was \$13.30 per hour. On Wednesday, March 25, 2020, Ms. Harris requested a leave of absence for the period of March 25, 2020 to April 8 2020 and the employer approved the request. Ms. Harris' stated reason for the leave of absence was that someone she lived with had come into contact with someone who tested positive for COVID-19 and Ms. Harris needed to self-quarantine. Ms. Harris worked 16 hours during the week of March 22-28, 2020 before she went off work. Her wages for that work totaled \$212.80. Ms. Harris did not return to work at the end of that leave of absence. On April 6, 2020, Ms. Harris requested to extend the leave of absence through April 23, 2020 because she desired to continue to self-quarantine. Ms. Harris was concerned about the possibility of being exposed to COVID-19 in light of her history of respiratory illness, asthma, and being overweight. Ms. Harris was concerned that the employer had not yet mandated that staff and customers wear masks in the workplace. Ms. Harris returned to the full-time employment on Friday, April 24, 2020. During Ms. Harris' absence from the workplace, the employer continued to have the same full-time work available for her.

Ms. Harris worked 19 hours during the week that ended April 25, 2020 for which she earned \$252.70.

Ms. Harris established an original claim for unemployment insurance benefits that was effective March 22, 2020. Iowa Workforce Development set her weekly benefit amount for regular benefits at \$481.00. Menards is the sole base period employer. Ms. Harris made weekly claims for the five weeks between March 22, 2020 and April 25, 2020. Ms. Harris received benefits for each of those weeks.

REASONING AND CONCLUSIONS OF LAW:

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. 871-24.22(2) provides, in pertinent part, as follows:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market.

Iowa Admin. Code r. 871-24.23(10) and (29) 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.

...

(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

During the period of March 25, 2020 through April 23, 2020, the claimant was on a leave of absence that she requested and that employer approved. The leave of absence was based on the claimant's desire to self-quarantine, first due to perceived potential exposure to COVID-19 and then out of concern for potentially being exposed to COVID-19. During the calendar week

when the leave started and the calendar week when the leave ended, the claimant was not available for work with the employer for the majority of the week. During the period of March 22, 2020 through the benefit week that ended April 25, 2020, the claimant was not available for work within the meaning of the law, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits for the period of March 22, 2020 through April 25, 2020.

Even though claimant is not eligible for regular unemployment insurance benefits under state law, the claimant 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.

DECISION:

The July 16, 2020, reference 01, decision is affirmed. The claimant was not available for work within the meaning of the law during the period of March 22, 2020 through April 25, 2020 and is not eligible for benefits for that period.



James E. Timberland
Administrative Law Judge

October 12, 2020
Decision Dated and Mailed

jet/sam

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you have received.**