

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MACAYLA GREGSON
Claimant

MID IOWA SUBWAY INC
Employer

APPEAL NO. 20A-UI-08417-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Respondent (2)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated July 8, 2020 reference 02, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on August 28, 2020. Claimant participated personally. Employer participated by Angie Anderson.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

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 part time sandwich artist for employer working 30 hours per week.

On March 20, 2020 the store where claimant worked closed down for Covid. The store was reopened on April 22, 2020. Employer sent notes to claimant requesting that she affirmatively state if she would be coming back to work. Claimant stated she did not receive these letters in her mail and did not respond. Claimant's manager – her sister – stated claimant did not wish to return on April 22, 2020. Claimant stated she has a strained relationship with her sister and never said that she didn't want to return.

Claimant stated that she was unable to obtain babysitting for her young children until sometime right before she returned to work for employer on July 29, 2020.

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:

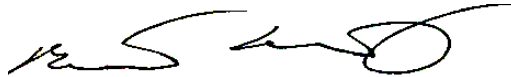
3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (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".

Inasmuch as the claimant did not have child care that was available to her until very shortly before she returned to work, claimant is not able and available to work from the period of when work was first offered to her on April 22, 2020 through July 27, 2020.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he/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. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

DECISION:

The decision of the representative dated July 8, 2020, reference 02 is reversed. Claimant is not eligible to receive unemployment insurance benefits, effective April 21, 2020 through July 27, 2020 as she was not able and available for work even though there was work available.



Blair A. Bennett
Administrative Law Judge

August 31, 2020
Decision Dated and Mailed

bab/scn

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.
- If you do not qualify for regular unemployment insurance benefits due to disqualifying separations 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.** More information about how to apply for PUA is available online at:
www.iowaworkforcedevelopment.gov/pua-information