

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**BRANDY N TIMMERMAN**  
Claimant

**APPEAL NO. 20A-UI-09390-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SHREE GANESHSAI HOSPITALITY INC**  
Employer

**OC: 03/29/20**  
**Claimant: Appellant (1)**

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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 July 31, 2020 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on September 23, 2020. Claimant participated personally. Employer participated by Kevin Patel. Claimant's Exhibits A-B 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 full time front desk clerk for employer. On or around March 29, 2020 claimant asked for and received a leave of absence that covered her until May 9, 2020. Claimant asked for this leave as she has high risk conditions, her father who spends a great deal of time with her is also high risk, and her child was out from school. After May 9, 2020 claimant asked for and received reduced hours as she did not have ongoing child care. This continued until July 5, 2020.

**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 claimant asked for and received a leave of absence covering her from March 29, 2020 through July 5, 2020. As this is the case, the claimant has not established the ability to work for that period. Claimant asked for and received a total leave for the period between March 29, 2020 and May 9, 2020. Claimant asked for and received reduced hours for the period between May 10, 2020 and July 5, 2020. It was only because claimant requested reduced hours that she became eligible for partial benefits during this period. Benefits are withheld for the period between March 29, 2020 and July 5, 2020.

**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](http://www.iowaworkforcedevelopment.gov/pua-information)

**DECISION:**

The decision of the representative dated July 31, 2020, reference 01 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective March 29, 2020 through July 5, 2020 as she was on a leave of absence and then requested reduced hours and was therefore unable to work during this period.



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Blair A. Bennett  
Administrative Law Judge

September 28, 2020  
Decision Dated and Mailed

bab/mh