

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SARAH M LAUBE
Claimant

CHRISMA INC
Employer

APPEAL 20A-UI-14111-S1-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Iowa Code § 96.4(3) – Able and Available
Iowa Code § 96.5-3-a – Refusal to Accept Suitable Work
871 IAC 24.24(7) – Work Refusal

STATEMENT OF THE CASE:

Chrisma (employer) appealed a representative's October 27, 2020, decision (reference 02) that concluded Sarah Laube (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 6, 2021. The claimant participated personally. The employer participated by Stephanie Breitbach, General Manager. The administrative law judge took official notice of the administrative file.

ISSUE:

The issue is whether the claimant refused suitable work and whether the 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 that: The claimant worked for the employer as a part-time server from November 14, 2017, to June 16, 2019, and from September 6, 2019, to March 15, 2020. The employer laid off the claimant due to Covid-19 on March 15, 2020.

The claimant returned and worked from May 11, 2020, through May 21, 2020. The claimant stopped working after May 21, 2020, due to anxiety from working during the pandemic. No offer of work was made to the claimant after May 21, 2020.

The claimant filed for unemployment insurance benefits with an effective date of March 15, 2020. Her weekly benefit amount was determined to be \$251.00. The claimant received benefits from March 15, 2020, to the week ending May 23, 2020. This is a total of \$2,426.00 in state unemployment insurance benefits after the separation from employment. She also received \$4,800.00 in Federal Pandemic Unemployment Compensation for the eight-week period ending May 23, 2020. The claimant did not reopen her claim for unemployment insurance benefits after her separation from employment.

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. 871-24.24(1)a provides:

(1) Bona fide offer of work.

a. In deciding whether or not a claimant failed to accept suitable work, or failed to apply for suitable work, it must first be established that a bona fide offer of work was made to the individual by personal contact or that a referral was offered to the claimant by personal contact to an actual job opening and a definite refusal was made by the individual. For purposes of a recall to work, a registered letter shall be deemed to be sufficient as a personal contact.

Iowa Admin. Code r. 871-24.23(1) provides:

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.

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. The claimant separated from work because she was experiencing anxiety about working during the pandemic. Due to her medical condition, she is considered to be unavailable for work. The claimant quit work and her last day was May 21, 2020. No offer of work was made to the claimant after she quit. The claimant is disqualified from receiving unemployment insurance benefits beginning May 22, 2020.

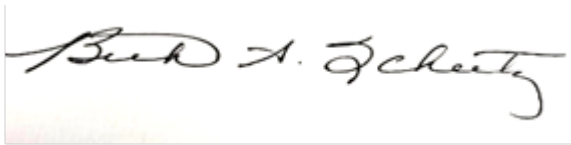
The issue of the claimant's separation from employment is remanded for determination.

DECISION:

The representative's October 27, 2020, decision (reference 02) is reversed. The claimant is disqualified from receiving unemployment insurance benefits as of May 22, 2020, because of a medical inability to work.

The issue of the claimant's separation from employment is remanded for determination.

Please notify the department immediately with a physician's statement if the conditions change regarding your ability to work and you believe the disqualification can be removed.

A handwritten signature in cursive script, reading "Beth A. Scheetz". The signature is written in black ink on a white background. Below the signature is a horizontal line.

Beth A. Scheetz
Administrative Law Judge

January 25, 2021
Decision Dated and Mailed

bas/scn