

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**CHRISTINE M BOLDEN**  
**Claimant**

**KWIK TRIP INC**  
**Employer**

**APPEAL NO. 20A-UI-04556-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

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

Iowa Admin. Code ch. 871 r. 24.23(10) – Leave of Absence  
Iowa Code § 96.4-3 – Able and Available  
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment  
Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated May 15, 2020 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on June 15, 2020. Claimant participated personally. Employer participated by Emily Seropolous.

**ISSUE:**

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

**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 clerk for employer. On or around April 1, 2020 claimant received advice from her doctor that it might not be in her best interest to continue working during the Covid virus concerns. This is because claimant has some issues and more importantly, that her sister, with whom she lives, has serious underlying conditions that could make contracting the virus very dangerous.

Employer has allowed and continues to allow claimant to continue on her leave of absence, although employer has work hours available for claimant.

Claimant has received state benefits in this matter of \$2,828.00. Claimant has received no federal benefits.

### 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".

The claimant has not established the ability to work. Benefits are withheld until such time as the claimant shows that she is able and available for work.

Claimant has received state benefits in this matter of \$2,828.00. These are overpayments.

*Note to Claimant:* Even though claimant is not eligible for regular unemployment insurance benefits under state law, 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. 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. **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>.

**DECISION:**

The decision of the representative dated May 15, 2020, reference 01 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, until she has ended her leave of absence.

Claimant has received state benefits in this matter of \$2,828.00. These are overpayments.



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Blair A. Bennett  
Administrative Law Judge

June 26, 2020  
Decision Dated and Mailed

bab/mh