

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SERENA A KREMENAK
Claimant

APPEAL 20A-UI-11807-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MJ COMMERCIAL CLEANING LLC
Employer

**OC: 03/22/20
Claimant: Appellant (3)**

Iowa Admin. Code r. 871-24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

On September 23, 2020, Serena Kremenak (claimant/appellant) filed an appeal from the September 16, 2020 (reference 01) unemployment insurance decision that denied benefits as of June 28, 2020 based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was held on November 16, 2020. The parties were properly notified of the hearing. The claimant participated personally. MJ Commercial Cleaning LLC (employer/respondent) participated by Owner Jacy Ahmed.

Claimant's Exhibit 1. Official notice was taken of the administrative record.

ISSUES:

Is the claimant on an approved leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant began working for employer on October 31, 2017. Claimant is still employed by employer as a part-time cleaner. The last day claimant worked on the job was near the end of March 2020. At that time, claimant presented a doctor's note recommending she not work due to the pandemic and her pre-existing health conditions. Claimant requested and was granted a leave of absence beginning at that time. Claimant has not returned to work to date. Work has been available.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the September 16, 2020 (reference 01) unemployment insurance decision that denied benefits as of June 28, 2020 based on a finding claimant requested and was granted a leave of absence is MODIFIED in favor of respondent. Claimant is not available for work from the benefit week ending March 28, 2020 and continuing to date.

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. 871-24.23(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.

The last day claimant worked on the job was near the end of March 2020. At that time, claimant presented a doctor's note recommending she not work due to the pandemic and her pre-existing health conditions. Claimant requested and was granted a leave of absence beginning at that time. Claimant has not returned to work to date. Claimant does not meet the availability requirements to be eligible for benefits during this period. Therefore, benefits must be denied.

While this decision denies regular, state benefits, the evidence indicates claimant may be eligible for federal Pandemic Unemployment Assistance (PUA). Further information on PUA, including how to apply, is set forth below.

DECISION:

The September 16, 2020 (reference 01) unemployment insurance decision that denied benefits as of June 28, 2020 based on a finding claimant requested and was granted a leave of absence is MODIFIED in favor of respondent. Claimant is not available for work from the benefit week ending March 28, 2020 and continuing to date. Benefits are denied.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

November 20, 2020
Decision Dated and Mailed

abd/mh

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.