

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SARA J RODEMEYER
Claimant

EXPRESS SERVICES INC
Employer

APPEAL 21A-UI-05229-S1-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 10/11/20
Claimant: Appellant (1R)

Iowa Code § 96.4-3 – Able and Available
871 IAC 24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

Sara Rodemeyer (claimant) appealed a representative's February 9, 2021, decision (reference 03) that concluded ineligibility to receive unemployment insurance benefits as of October 11, 2020, because a leave of absence was granted by Express Services (employer) at the claimant's request. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 21, 2021. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The administrative law judge took official notice of the administrative file.

ISSUE:

The issue is whether the claimant is available for work and whether the claimant was 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 that: The employer is a temporary agency. The claimant started working with the employer in 2017, and has had as many as four assignments. The claimant assigned to work at Winnebago Industries on August 3, 2020, as a full-time laborer.

The claimant had a low-grade temperature and was in quarantine from October 12, 2020, through October 22, 2020. She had no earnings for the two weeks ending October 24, 2020. She tested negative for Covid-19. She returned to work on October 23, 2020, and earned \$122.00 for the week ending October 24, 2020.

The claimant worked the benefit week ending October 31, 2020, and earned \$612.00. She worked most of the benefit week ending November 7, 2020, and earned \$398.00. On November 5, 2020, the claimant became ill and tested positive for Covid-19. She was in quarantine from November 5, 2020, through November 22, 2020. She had no earnings for the

two weeks ending November 21, 2020. The claimant returned to work on November 23, 2020, but no work was available to her.

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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(1) and (23) provide:

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.

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

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 was exhibiting symptoms of Covid-19 or tested positive for Covid-19. To prevent the spread of a deadly virus, the employer removed and quarantined her from the workplace. She was not able and available for work during the period of the quarantines. The claimant is disqualified from receiving unemployment insurance benefits for the two weeks ending October 24, 2020, and the two weeks ending November 21, 2020.

The claimant was working full-time for the employer for the two weeks ending November 7, 2020. This is the two weeks between the quarantines. The claimant is disqualified from receiving unemployment insurance benefits because the claimant was not available for other work for the two weeks ending November 7, 2020.

Even though the 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

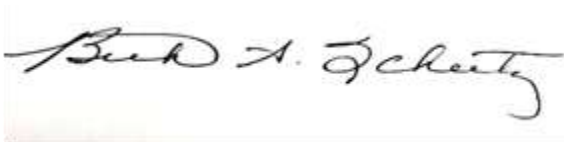
is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

The issue of the claimant's separation from employment is remanded for an initial investigation and decision.

DECISION:

The representative's February 9, 2021, decision (reference 03) is affirmed. The claimant is considered to be unavailable for work and is not eligible to receive unemployment insurance benefits from October 11, 2020, to November 20, 2020.

The issue of the claimant's separation from employment is remanded for an initial investigation and decision.



Beth A. Scheetz
Administrative Law Judge

April 26, 2021
Decision Dated and Mailed

bas/ol

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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently 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 under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.