

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ROBIN L BURT
Claimant

DGS-ACQUISITIONS LLC
Employer

APPEAL 20A-UI-05413-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

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

Iowa Admin. Code r. 871-24.23(10) – Voluntary Leave of Absence
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On June 5, 2020, Robin Burt (claimant/appellant) filed an appeal from the March 29, 2020 (reference 01) unemployment insurance decision that denied benefits.

A telephone hearing was held on July 8, 2020. The parties were properly notified of the hearing. The claimant participated personally. DGS-Acquisitions LLC (employer/respondent) participated by HR Manager Jessica White. Store Director Rob Gutierrez and HR Rep Brandy Kading participated as witnesses for employer.

Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to and available for work?

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 worked for employer as a full-time produce clerk. Claimant's first day of employment was April 28, 2015. Claimant is still employed there. The last day claimant worked on the job was March 26, 2020. Claimant took a voluntary leave of absence beginning April 1, 2020. This leave was advised by her physician due to a medical condition which made her particularly susceptible to COVID-19. She has not yet returned to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the March 29, 2020 (reference 01) unemployment insurance decision that denied benefits is AFFIRMED.

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.

Because claimant requested and was granted a leave of absence, she is considered voluntarily unemployed during that period and is not eligible for state unemployment benefits. Benefits are denied.

The administrative law judge notes claimant's period of unemployment was related to the pandemic. While this decision denies regular, state unemployment benefits, claimant may well be eligible for federal Pandemic Unemployment Assistance. More information on PUA is set forth below.

DECISION:

The March 29, 2020 (reference 01) unemployment insurance decision that denied benefits is AFFIRMED. Claimant is not available for work effective April 1, 2020. Benefits must be denied.



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

July 17, 2020
Decision Dated and Mailed

abd/scn

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 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.