

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MARCY J MCKAY
Claimant

JELD-WEN INC
Employer

APPEAL 21A-UI-01938-AD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/01/19
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On December 28, 2020, Marcy McKay (claimant/appellant) filed an appeal from the December 22, 2020 (reference 02) unemployment insurance decision that denied benefits as of September 27, 2020 based on a finding claimant was unable to work due to illness.

A telephone hearing was held on February 25, 2021. The parties were properly notified of the hearing. The claimant participated personally. Jeld-Wen Inc (employer/respondent) did not register a number for the hearing and so did not participate.

ISSUES:

Is the claimant able to and available for work?

FINDINGS OF FACT:

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

Claimant began working for employer in February 2020. Claimant continues to work for employer full-time as a customer service representative. Employer held claimant out of work during the weeks ending October 3, 10, and 17, 2020 due to claimant testing positive for COVID-19. Employer also held claimant out of work during the week ending November 21, 2020. Claimant was able and available for work during the periods she was held out. Claimant was otherwise employed as usual from September 27, 2020 and continuing to present.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the December 22, 2020 (reference 02) unemployment insurance decision that denied benefits as of September 27, 2020 based on a finding claimant was unable to work due to illness is REVERSED. Claimant is eligible for benefits as set forth below.

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".

Employer held claimant out of work during the weeks ending October 3, 10, and 17, 2020 due to claimant testing positive for COVID-19. Employer also held claimant out of work during the week ending November 21, 2020. Claimant was able and available for work during the periods she was held out. Claimant was otherwise employed as usual from September 27, 2020 and continuing to present. Benefits are therefore allowed during the weeks claimant was held out of work. Benefits are not allowed during the weeks claimant filed but was employed and working full-time, as during those weeks she was employed to such an extent as to be unavailable for other work.

DECISION:

The December 22, 2020 (reference 02) unemployment insurance decision that denied benefits as of September 27, 2020 based on a finding claimant was unable to work due to illness is REVERSED. Claimant is eligible for benefits as set forth above.



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

March 4, 2021
Decision Dated and Mailed

abd/lj