

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**TROY HAIN**  
Claimant

**LOWE'S HOME CENTERS LLC**  
Employer

**APPEAL NO. 20A-UI-04753-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

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

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 19, 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 Amanda Semulka-George.

**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 worked for employer as a full-time sales specialist. On March 18, 2020 claimant requested and received time off, as his family had no child care during the Covid crisis. From the dates of March 18-31, 2020 claimant was paid by his employer during the time off.

On April 1, 2020 claimant asked for and was granted an unpaid leave of absence. This extended until claimant's planned return date of June 1, 2020.

On May 31, 2020 claimant quit his employment, stating that he was going to be getting another job working at Bryant's Grill near his residence. As of the date of this hearing, claimant had not begun to work, but was supposed to in the very near future.

Claimant has received state unemployment benefits of \$3808.00 and FPUC benefits of \$3600.00 in this matter.

### 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 for the period he was off work. Benefits are denied.

Claimant has received state unemployment benefits of \$3808.00 and FPUC benefits of \$3600.00 in this matter. Said benefits received are overpayments. Claimant's receipt of benefits for the period between March 18-31, 2020 appear to have been inappropriately secured. This matter is remanded to the benefits bureau for further investigation into benefits received during this time.

*Note to Claimant:* Even though claimant is not eligible for regular unemployment insurance benefits under state law, he 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 19, 2020, reference 01 is affirmed. Claimant is not eligible to receive state unemployment insurance benefits.

Claimant has received state unemployment benefits of \$3808.00 and FPUC benefits of \$3600.00 in this matter. Said benefits received are overpayments. Claimant's receipt of benefits for the period between March 18-31, 2020 appear to have been inappropriately secured. This matter is remanded to the benefits bureau for further investigation into benefits received during this time.

This matter is remanded to the fact finder for determination on the separation issue.



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Blair A. Bennett  
Administrative Law Judge

June 29, 2020  
Decision Dated and Mailed

bab/sam