

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

<b>LUIS MORAN</b> Claimant  <b>WEST LIBERTY FOODS LLC</b> Employer	<div>68-0157 (9-06) - 3091078 - EI</div> <div><b>APPEAL NO: 20A-UI-07919-JE-T</b></div> <div><b>ADMINISTRATIVE LAW JUDGE DECISION</b></div> <div><b>OC: 04/05/20</b> <b>Claimant: Appellant (4R)</b></div>
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Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 14, 2020, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 18, 2020. The claimant participated in the hearing CTS Language Link Interpreter Christian (12498). Karyn Goldensoph, Human Resources Supervisor, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant is able and available for work.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a full-time last rotator at West Liberty Foods on July 16, 1979, and is still employed there. He was furloughed from April 13 through April 27, 2020, due to a business slowdown because of COVID-19. On April 27, 2020, he provided a doctor's note excusing him from work due to COVID-19 and the employer placed him on short-term disability and paid him 50 percent of his wages until May 29, 2020. He did not report those wages. The claimant was then put on American's with Disabilities Act (ADA) leave effective June 1, 2020, and remains on ADA to this day because he had back surgery July 2, 2020. He will require at least six more weeks of therapy.

The issues of the claimant's overpayment of benefits and failure to report his wages have not been heard or adjudicated by the Benefits Bureau.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work effective April 27, 2020.

Iowa Code section 96.4(3) provides:

A 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 4 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The claimant was furloughed due to a lack of work because of COVID-19 from April 13 through April 26, 2020. He was able and available for work during that time and was eligible for benefits through the week ending April 25, 2020. He was then on a leave of absence/short-term disability due to COVID-19 from April 27 through May 29, 2020, and was paid 50 percent of his wages. He did not report those wages to the Department. He had exhausted his FMLA at that point and consequently the employer placed him on ADA leave beginning June 1, 2020. He remains on ADA leave because he had back surgery July 2, 2020. Accordingly, the claimant is not considered able and available for work from the week ending May 2, 2020, and benefits must be denied.

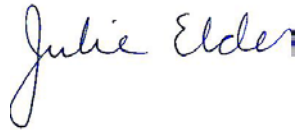
The issues of the claimant's overpayment of benefits and failure to report his wages are remanded to the Benefits Bureau.

**DECISION:**

The July 14, 2020, reference 01, decision is modified in favor of the claimant. The claimant is able to work and available for work for the two weeks ending April 25, 2020. He is not able and available for work and benefits are denied effective the week ending May 2, 2020.

**REMAND:**

The issues of the claimant's overpayment of benefits and failure to report wages are remanded to the Benefits Bureau.



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Julie Elder  
Administrative Law Judge

August 21, 2020  
Decision Dated and Mailed

je/scn

*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>.