

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

ANDREA FLORES DE ALEMAN

Claimant

and

WEST LIBERTY FOODS LLC

Employer

:
:
:
:
:
:
:
:
:
:
:

HEARING NUMBER: 20B-UI-09059

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.19-3-A&B, 96.4-

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

The Administrative Law Judge's findings of fact are adopted by the Board as its own, and the following analysis is *added* to the Reasoning and Conclusions of Law.

When a Claimant agrees to take a voluntary layoff, but work was available if she did not take the layoff then benefits are denied for the period of the voluntary layoff. *Amana Refrigeration v. IDJS*, 334 N.W.2d 316, 319 (Iowa App. 1983); 871 IAC 24.23(41)(not available if "the claimant had a choice to work, and ... the willingness to work would have led to actual employment in suitable work during the weeks the employer temporarily suspended operations."). Notably *Amana Refrigeration*, which denied benefits, also involved a partial plant shut down, and a pre-shutdown choice given to employees about whether they preferred to work or not. Here for the weeks ending April 18, 2020 and April 25, 2020 the Claimant was not available because she was on voluntary layoff within the meaning of *Amana Refrigeration* and rule 24.23(41). Thus, for those weeks she is denied for that reason. She is **not** denied benefits following the week ending April 25, 2020, assuming she is otherwise eligible.

Iowa Workforce should note that as a result of today's ruling the Claimant's claim is only locked for the two weeks we have indicated, and today's decision does not lock the claim thereafter. The Employer should note that the Claimant at this point has only applied for benefits during three weeks. In one of these her earnings were too large for her to be able to collect unemployment, and the other two are the two weeks we have found her ineligible.

Finally, the Board Chair and Vice Chair would comment that should the Claimant be assessed an overpayment of Federal Pandemic Unemployment Compensation (FPUC) benefits (the extra \$600), the Claimant may be eligible for a waiver. To find out, the Claimant can appeal any FPUC overpayment received from the Iowa Workforce Development, Benefits Bureau, and request a waiver of FPUC. If she gets a waiver she would not be obliged to pay back the FPUC.

Ashley R. Koopmans

James M. Strohman

Myron R. Linn

RRA/fnv