

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ALANA R ERHART
Claimant

THE UNIVERSITY OF IOWA
Employer

APPEAL NO. 21A-UI-13824-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/21/21
Claimant: Appellant (5)

Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

The claimant, Alayna Erhart, filed a timely appeal from the June 1, 2021, reference 02, decision that denied benefits effective May 9, 2021, based on the deputy's conclusion that the claimant was unable to work due to illness. After due notice was issued, a hearing was held on August 12, 2021. Claimant participated. Scott Coons represented the employer. There were three appeal numbers set for a consolidated hearing: 21A-UI-13822-JTT, 21A-UI-13823-JTT and 21A-UI-13824-JTT. Exhibits A and B were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, DBIN and WAGE-A. The administrative law judge took official notice of Red Lobster's SIDES response to the notice of claim issued to that employer.

ISSUES:

Whether the claimant had an active claim for benefits for the period beginning May 9, 2021.
Whether the claimant was able to work and available for work for the period beginning May 9, 2021.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a new original claim and a second benefit year that was effective March 21, 2021. The claimant made weekly claims for the five weeks between March 21, 2021 and April 24, 2021. The claimant has had no active claim since April 25, 2021.

On June 1, 2021, an Iowa Workforce Development Benefits Bureau deputy entered the reference 02 decision that denied benefits effective May 9, 2021, based on the deputy's conclusion that the claimant was unable to work due to illness. The decision followed the claimant's participation in a May 28, 2021 fact-finding interview, wherein the claimant referenced having recently been ill.

REASONING AND CONCLUSIONS OF LAW:

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. 871-24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23(1) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

Iowa Administrative Code rule 871-24.2.(1)(g) provides as follows:

(g). No continued claim for benefits shall be allowed until the individual claiming benefits has completed a continued claim or claimed benefits as otherwise directed by the department.

(1) The weekly continued claim shall be transmitted not earlier than 8 a.m . on the Sunday following the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on Friday following the weekly reporting period.

Because the claimant has not made any weekly claims for the period beginning April 25, 2021, the issue of whether the claimant was able to work and available for work during the period that

began May 9, 2021 is moot. Rather, there would be no eligibility for benefits during a period when there is not active claim.

DECISION:

The June 1, 2021, reference 02, decision is modified as follows. Because the claimant has not made any weekly claims for the period beginning April 25, 2021, the issue of whether the claimant was able to work and available for work during the period that began May 9, 2021 is moot. Rather, there would be no eligibility for benefits during a period when there is no active claim.



James E. Timberland
Administrative Law Judge

September 20, 2021
Decision Dated and Mailed

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