

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

PAMELA K BOWMAN
Claimant

MANN'S ENTERPRISES, L.L.C.
Employer

APPEAL 20R-UI-12068-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/03/20
Claimant: Appellant (4)

Iowa Code section 96.4(3) – Eligibility – Able to and Available for Work
Iowa Admin. Code r. 871-24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

On June 25, 2020, Pamela Bowman (claimant/appellant) filed an appeal from the June 23, 2020 (reference 01) unemployment insurance decision that denied benefits as of May 3, 2020 based on a finding claimant requested and was granted a leave of absence.

Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for August 3, 2020 at 1:05 p.m. Claimant did not register a number for the hearing and no hearing was held. A default order was entered on August 10, 2020.

Claimant appealed the default order to the Employment Appeal Board (EAB). The EAB remanded for a new hearing. A telephone hearing was held on November 24, 2020. The parties were properly notified of the hearing. Claimant participated personally. Mann's Enterprises, L.L.C. (employer/respondent) participated by Supervisor Charity Heusel.

Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to and available for work?

Is the claimant on an approved leave of absence?

FINDINGS OF FACT:

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

Claimant's first day of employment was December 1, 2017. The last day claimant worked on the job was April 6, 2020. Claimant worked for employer as a part-time crew person. Claimant's immediate supervisor was Heusel. Claimant separated from employment on June 15, 2020. Claimant resigned on that date.

Claimant requested and was granted a leave of absence due to a medical issue. That leave began after her last day worked on April 6, 2020 and continued until her resignation on June 15,

2020. Claimant resigned because her doctor would not allow her to return to work. She came to the restaurant on that day to inform employer that her doctors would not allow her to return to work and to hand in her uniforms. Donnelson asked her if that meant she was "done," and she confirmed it did.

Claimant's doctor released her to return to work with restrictions on October 22, 2020. She is restricted from heavy lifting and from working for more than four hours without a sit-down break. Claimant has been searching for work since that time. She has not contacted employer to attempt to return to work there.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the June 23, 2020 (reference 01) unemployment insurance decision that denied benefits as of May 3, 2020 based on a finding claimant requested and was granted a leave of absence is MODIFIED in favor of appellant. Claimant is not able and available for work from the date of filing until her doctor's release on October 22, 2020. She is able and available for work from that date and eligible for benefits, provided she is otherwise eligible.

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. 871-24.23(10) provides:

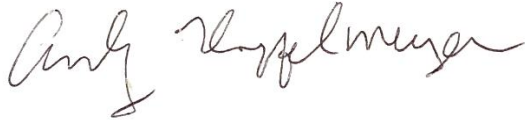
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(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.

Claimant requested and was granted a leave of absence from April 6, 2020 and continuing until her separation from employment on June 15, 2020. In doing so, claimant made herself unavailable for work during this time. Claimant is therefore not eligible for benefits during this period. Claimant was still unable and unavailable for work until her doctor released her to return to work with restrictions on October 22, 2020. Claimant has been searching for work since that time. She is able and available for work from that date and is therefore eligible for benefits, provided she meets all other eligibility requirements.

DECISION:

The June 23, 2020 (reference 01) unemployment insurance decision that denied benefits as of May 3, 2020 based on a finding claimant requested and was granted a leave of absence is MODIFIED in favor of appellant. Claimant is not able and available for work from the date of filing until her doctor's release on October 22, 2020. She is able and available for work from that date and eligible for benefits, provided she is otherwise eligible.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

December 7, 2020
Decision Dated and Mailed

abd/mh

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.