

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**KERRI KNAPP**  
Claimant

**ALUMINUM CO OF AMERICA  
DAVENPORT WORKS**  
Employer

**APPEAL NO. 20A-UI-11953-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/03/20**  
**Claimant: Appellant (1)**

Iowa Code Section 96.4(3) – Able & Available  
Iowa Code Section 96.19(38) – Temporary and Partial Unemployment

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the September 16, 2020, reference 01, decision that denied benefits for the period beginning May 3, 2020, based on the deputy's conclusion that that claimant requested and was approved for a leave of absence, was voluntarily unemployed and not available for work. After due notice was issued, a hearing was held on November 5, 2020. Claimant participated. The employer did not provide a telephone number for the hearing and did not participate. Exhibit A, the online appeal was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A. The administrative law judge left the record open for the limited purpose of allowing the claimant to submit documentation that claimant agreed to submit as soon as the hearing was done. The claimant did not submit documentation.

**ISSUES:**

Whether the claimant was able to work and available for work during the period between May 3, 2020 and May 23, 2020.

Whether the claimant was partially and/or temporarily unemployed during the period between May 3, 2020 and May 23, 2020.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed with Aluminum Company of America (ALCOA) on a full-time basis. The claimant works three 12-hour shifts and four 12-hour shifts the next week. During the week that ended May 9, 2020, the claimant was absent from each of her three scheduled shifts due to illness and used Family and Medical Leave Act leave for those shifts. In April 2020, the claimant requested to be included in a voluntary "layoff" for the weeks that ended May 16 and May 23, 2020. The employer granted the claimant's request to be off work for those two weeks. The claimant returned to work on May 26, 2020.

The claimant established an original claim for benefits that was effective May 3, 2020 and made weekly claims for the three weeks that ended May 9, 16 and 23, 2020. The claimant received regular benefits and Federal Pandemic Unemployment Compensation (FPUC) for each of those weeks.

### **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) and (10) 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.

...

(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 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

If a claimant individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. Iowa Code section 96.7(2)(a)(2)(a).

The claimant did not meet the able and available requirements during the three weeks between May 3, 2020 and May 23, 2020 and is not eligible for benefits for those weeks. During the week that ended May 9, the claimant was off work due to illness for the entire week. During the weeks that ended May 16 and May 23, 2020, the claimant was off work pursuant to her request to be off work those weeks and the employer's approval of the request. In other words, the claimant was on a leave of absence during the two-week period of May 10, 2020 through May 23, 2020. Because the claimant requested to be off work, the time away from work cannot be considered a layoff within the meaning of the law and the claimant cannot be deemed temporarily unemployed within the meaning of the law. Benefits are denied for the three week period of May 3-23, 2020.

**DECISION:**

The September 16, 2020, reference 01, is affirmed. The claimant did not meet the able and available requirements during the three weeks between May 3, 2020 and May 23, 2020 and is not eligible for benefits for that period.



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James E. Timberland  
Administrative Law Judge

November 12, 2020  
Decision Dated and Mailed

jet/mh

**NOTE TO CLAIMANT:** This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.

If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you have received.**