

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

**CAMI J RINIKER
APT 1
7959 – 1ST ST
PEOSTA IA 52068-9620**

**NORTHLAND RESTAURANT GROUP LLC
3112 GOLF RD
EAU CLAIRE WI 54701**

APPEAL NO. 21A-UI-13666-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

APPEAL RIGHTS:

This Decision Shall Become Final, unless within 15 days from the mailing date below the administrative law judge's signature on the last page of this decision, you or any interested party:

Appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to:

***Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
OR
Fax Number: (515)281-7191***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

ONLINE RESOURCES:

UI law and administrative rules:

<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>

UI Benefits Handbook:

<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-claimant-handbook>

Employer UI Handbook: <https://www.iowaworkforcedevelopment.gov/employer-handbook>

Report UI fraud: <https://www.iowaworkforcedevelopment.gov/report-fraud>

Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>

National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CAMI J RINIKER
Claimant

NORTHLAND RESTAURANT GROUP LLC
Employer

APPEAL NO. 21A-UI-13666-JTT

**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, Cami Riniker, filed a timely appeal from the June 17, 2021, reference 02, decision that denied benefits effective March 21, 2021, based on the deputy's conclusion that the claimant requested and was approved for a leave of absence, was voluntarily unemployed, and was not available for work. After due notice was issued, a hearing was held on August 12, 2021. Claimant participated. Daniel Mitchell represented the employer. The hearing in this matter was consolidated with the hearing in Appeal Number 21A-UI-13665-JTT. The two appeal matters and the decisions on which they are based are duplicative. Exhibits A, B and C were received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

ISSUES:

Whether the claimant was able to work and available for work for the period beginning March 21, 2021.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed by Northland Restaurant Group, L.L.C., doing business as Hardee's, as a full-time Shift Leader. The claimant has held the same position since 2018. The claimant usually works 34 to 35 hours a week. The claimant's wage has at all relevant times been \$14.00 an hour. The claimant usually works Sunday through Thursday. Friday and Saturday are her usual days off. The claimant regularly works a variety of shifts. Tiffany Pergande, General Manager, is the claimant's primary supervisor. Assistant Manager Daniel Mitchell also supervises the claimant's employment.

On March 18, 2021, the claimant became sick with symptoms consistent with COVID-19. The claimant had a sore throat and lost her sense of smell and taste.

The claimant reported for work on Monday, March 22, 2021 and worked a couple hours during which she became more ill. The claimant told Mr. Mitchell her circumstances and Mr. Mitchell sent her home early. The claimant went to the doctor that same day and submitted to COVID-

19 testing. The doctor initially advised the claimant to quarantine at home for three days while she waited for the test results. The doctor advised the claimant she would need to quarantine for 10 days if she tested positive for COVID-19.

The claimant received her COVID-19 test results in March 23, 2021 and learned that she had tested positive for COVID-19. The claimant promptly notified the employer she had COVID-19.

The claimant returned to work on Tuesday, March 30, 2021 and completed her shift that day. However, the claimant continued to experience the lingering effects of her illness. The claimant ended up working just 18 hours the week that ended April 3, 2021. The employer had full-time work available.

During the week that ended April 10, 2021, the claimant worked 27 hours, but was absent from her shift on April 9, 2021 due to illness. The employer continued to have full-time work available.

During the week that ended April 17, 2021, the claimant worked 25 hours, but was absent from her shift on April 11, 2021 due to illness. The employer continued to have full-time work available.

Because the claimant continued to feel ill, she returned to the doctor on April 27, 2021 and underwent another COVID-19 test. On April 28, 2021, the claimant received her COVID-19 test results, which were at that point negative.

The claimant established an original claim for benefits that was effective March 21, 2021. Iowa Workforce Development set the weekly benefit amount for regular benefits at \$267.00. This employer is the sole base period employer. The claimant made weekly claims for the four weeks between March 21, 2021 and April 17, 2021, but then discontinued her claim.

For the week that ended March 27, 2021, the claimant reported zero wages and earned zero wages.

For the week that ended April 3, 2021, the claimant reported \$160.00 in wages. The actual wages for the 18 hours worked that week totaled \$252.00.

For the week that ended April 10, 2021, the claimant reported \$390.00 in wages. The actual wages for the 27 hours worked that week were \$378.00.

For the week that ended April 17, 2021, the claimant reported \$220.00 in wages. The actual wages for the 25 hours worked that week were \$350.00.

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.

An individual shall be deemed *partially unemployed* in any week in which, while employed at the individual's then regular job, the individual works less than the regular hours and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars. Iowa Code Section 96.19(38)(b).

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 is not eligible for regular state benefits for the week that ended March 27, 2021 because she was ill and unable to work during the period after the couple hours she worked on the Monday and through the remainder of the week. The claimant did not meet the availability requirement during that week.

The claimant worked the majority of the weeks that ended April 3, 10, and 17, 2021 and thereby met the able and available requirements. The claimant cannot be considered for benefits for those weeks because her wages exceeded her weekly benefit amount by more than \$15.00 and the claimant therefore was not partially unemployed within the meaning of the law.

DECISION:

The June 17, 2021, reference 02, is modified as follows. The claimant was not able or available for work during the week that ended March 27, 2021 and is not eligible for benefits for that week. The claimant was able to work, available for work, but not partially unemployed during the weeks that ended April 3, 10, and 17, 2021. The claimant is not eligible for regular state benefits for the period of March 21, 2021 through April 17, 2021.



James E. Timberland
Administrative Law Judge

November 4, 2021
Decision Dated and Mailed

jet/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 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>.