

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TANYA D VOELKER
Claimant

KRAFT HEINZ FOODS COMPANY (LLC)
Employer

APPEAL 20A-UI-10782-S1-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/17/19
Claimant: Appellant (1)

Iowa Code § 96.4-3 – Able and Available
871 IAC 24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

Tanya Voelker (claimant) appealed a representative's August 28, 2020, decision (reference 02) that concluded ineligibility to receive unemployment insurance benefits from May 3, 2020, through May 30, 2020, because she was unable to work for Kraft Heinz Foods Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 21, 2020. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The administrative law judge took official notice of the administrative file.

ISSUE:

The issue is whether the claimant is available for work and whether the claimant was on an approved leave of absence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on March 4, 2019, as a full-time filler operator. She requested a leave of absence from April 26, 2020, through May 20, 2020, so she could protect her family members from Covid-19. The employer granted the claimant's request without requiring a doctor's note. Work was available had the claimant not requested the leave of absence. The claimant took a week of vacation for the week ending May 2, 2020, collected vacation pay, and did not file a weekly claim for unemployment insurance benefits.

The claimant filed for unemployment insurance benefits with an effective date of November 17, 2019. Her weekly benefit amount was determined to be \$394.00. The claimant filed weekly claims for the four-week period ending May 30, 2020. During that time, she reported that she received no wages. No state unemployment insurance benefits or Federal Pandemic Unemployment Compensation were issued for that four-week period. The claimant filed weekly claims and received benefits during other 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. 871-24.23(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.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When employees request and are granted a leave of absence, they are considered to be voluntarily unemployed. The claimant requested a leave of absence and the employer granted the request. The claimant is considered to be voluntarily unemployed, or unavailable for work, during the period of the leave of absence and is not eligible to receive unemployment insurance benefits from May 3, 2020, through May 30, 2020.

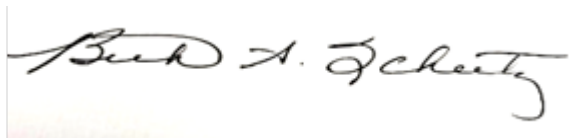
Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

DECISION:

The representative's August 28, 2020, decision (reference 02) is affirmed. The claimant is considered to be unavailable for work and is not eligible to receive unemployment insurance benefits from May 3, 2020, through May 30, 2020.

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 currently 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>.

A handwritten signature in black ink that reads "Beth A. Scheetz". The signature is written in a cursive style and is positioned above a horizontal line.

Beth A. Scheetz
Administrative Law Judge

October 23, 2020
Decision Dated and Mailed

bas/scn