

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PAULA A BALL
Claimant

UNITED BANK OF IOWA
Employer

APPEAL 20A-UI-11767-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/26/20
Claimant: Appellant (1R)

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

STATEMENT OF THE CASE:

The claimant/appellant, Paula A. Ball, filed an appeal from the September 21, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits because she requested and was approved for a leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on November 17, 2020. The hearing was held jointly with Appeal 20A-UI-11768-JC-T.

The claimant participated personally. The employer, United Bank of Iowa, participated through Molly Woerdehoff, Senior VP of Human Resources. IWD administrative law judges, Stephanie Adkisson, Sean Nelson and Daniel Zeno, attended as observers for training purposes.

The administrative law judge took official notice of the administrative records. Claimant Exhibits A-C and Employer Exhibits 1-6 were admitted into evidence. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

Note: At the hearing, claimant stated her middle initial should be “A” and not “F” as reflected on the notice of hearing,

ISSUES:

Is the claimant able to work and available for work effective April 26, 2020?
Is the claimant voluntarily unemployed due to a requested leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant last performed work on March 17, 2020. Claimant stated because of her age and underlying health conditions, she was advised by her doctor not to work because she was considered high risk if exposed to COVID-19. Claimant requested and was granted a leave of absence. She was paid by the employer through April 14, 2020. She was paid PTO for April 15 and 16, 2020. Effective April 17, 2020, she was placed on an unpaid leave of absence.

Claimant provided employer two doctors' notes to support her absence. The first doctor's note was dated April 27, 2020 and excused the claimant from work until May 18, 2020. The second doctor's note was dated May 12, 2020 and excused the claimant from work through May 30, 2020 (Claimant Exhibits B, C).

Claimant permanently separated from employment on May 22, 2020. The separation has been addressed in 20A-UI-11768-JC-T.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 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.

Iowa Admin. Code r. 24.22(2) provides:

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.

j. Leave of absence. A leave of absence negotiated *with the consent of both parties*, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

(emphasis added).

Iowa Admin. Code r. 871-24.23(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

For an unemployed individual to be eligible to receive benefits, she must be able to work, and available for work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

The administrative law judge recognizes the claimant has filed her current claim due to hardship related to the COVID-19 pandemic. Here, the employer had work available for the claimant until May 22, 2020. However, the claimant informed the employer she was unable to work due to being high risk if exposed to COVID-19. The employer agreed to allow the claimant time off for that reason. The claimant is considered to be on a leave of absence and is not available for work, according to Iowa law through May 22, 2020, when she separated from employment. She remained under medical care through May 30, 2020. Therefore, the claimant is not eligible for regular, state-funded unemployment insurance benefits April 26, 2020 through May 30, 2020.

The issue of whether the claimant is able to and available for work effective May 31, 2020 (post separation from employer) is remanded to the Benefits Bureau for an initial investigation and decision.

Note to Claimant: This decision denies benefits. *If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of 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>.

DECISION:

The unemployment insurance decision dated September 21, 2020, (reference 01) is affirmed. Claimant is not able to and available for work for the period of April 26, 2020 through May 30, 2020. Benefits are denied.

REMAND:

The issue of whether the claimant is able to and available for work effective May 31, 2020 (post separation from employer) is remanded to the Benefits Bureau for an initial investigation and decision.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

December 3, 2020
Decision Dated and Mailed

jlb/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.
- If you do not qualify for regular unemployment insurance benefits due to disqualifying separations 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.** More information about how to apply for PUA is available online at:
www.iowaworkforcedevelopment.gov/pua-information