

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**KRISTI J SCHROEDER**  
Claimant

**LOWE'S HOME CENTERS LLC**  
Employer

**APPEAL 21A-UI-01070-DB-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/19/20**  
**Claimant: Appellant (4R)**

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Iowa Code § 96.4(3) – Able to and Available for Work

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the December 3, 2020 (reference 01) unemployment insurance decision that found claimant was not eligible for unemployment benefits effective September 13, 2020 because she was on a leave of absence from work. The parties were properly notified of the hearing originally scheduled for February 15, 2021 at 3:00 p.m. A telephone hearing was held on February 10, 2021. Due to technical difficulties the hearing was held the following morning, February 16, 2021, at 10:00 a.m. As no attempts were made by the employer to register for or participate in the hearing, either on February 15 or by 10:00 a.m. on February 16, 2021, the hearing proceeded without their participation. Claimant waived due notice of the hearing date and time and consented to the hearing being held on February 16, 2021. The claimant participated personally. The employer did not participate. Claimant's Exhibit A was admitted. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

**ISSUE:**

Was the claimant able to and available for work from September 13, 2020 through September 26, 2020?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed with Lowe's Home Centers LLC from June of 2020 until October 23, 2020. On September 15, 2020 the claimant was ill and unable to work. Her doctor advised her to quarantine as her symptoms were similar to COVID 19 symptoms. See Exhibit A. Claimant was unable to and unavailable to work due to illness from September 15, 2020 through September 22, 2020 when she returned to work full-time.

Claimant subsequently separated employment with this employer in order to begin work with another employer. Any subsequent weekly-continued claims filed after December 27, 2020 are with regard to her employment with The HON Company and not this employer. The issue of whether the claimant's separation from employment with this employer and the claimant's

employment status with The HON Company is remanded to the Benefits Bureau for initial investigations and determinations.

**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. 871-24.22(1) 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.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

b. Interpretation of ability to work. The law provides that an individual must be able to work to be eligible for benefits. This means that the individual must be physically able to work, not necessarily in the individual's customary occupation, but able to work in some reasonably suitable, comparable, gainful, full-time endeavor, other than self-employment, which is generally available in the labor market in which the individual resides.

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) 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.

To be able to work, "[a]n individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood." *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1). "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides." *Sierra* at 723. The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that "[i]nsofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

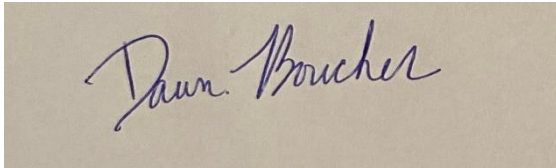
In this case, the claimant did not request a leave of absence from work but was unable to work due to illness. Because she was unable to work due to illness from the benefit week beginning September 13, 2020 through the benefit week-ending September 26, 2020, she is not eligible for unemployment insurance benefits funded by the State of Iowa during that two-week period. This decision is not a bar to any decision made regarding her eligibility for Pandemic Unemployment Assistance (PUA) benefits during that two-week period from September 13, 2020 through September 26, 2020. Claimant returned to her full-time employment with this employer at that time and stopped filing weekly-continued claims for benefits at that time. Claimant resumed filing weekly-continued claims for benefits due to her employment status with The HON Company.

**DECISION:**

The December 3, 2020 (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant was not able to work or available for work effective September 13, 2020 through September 26, 2020 due to illness. Unemployment insurance benefits funded by the State of Iowa are denied from September 13, 2020 through September 26, 2020 due to her inability to work due to illness.

**REMAND:**

The issue of whether the claimant's separation from employment with this employer and the claimant's employment status with The HON Company is remanded to the Benefits Bureau for initial investigations and determinations.

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Dawn Boucher  
Administrative Law Judge

February 25, 2021  
Decision Dated and Mailed

db/mh

**Note to Claimant**

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa 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 funded by the State of Iowa under state law, **you may qualify for benefits under the Federal Pandemic Unemployment Assistance (“PUA”) section of the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”)** that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**  
For additional information on how to apply for PUA go to:  
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:  
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to “Submit Proof Here.” You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:  
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.