

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**TYLER N SUMMERS**  
Claimant

**KPI CONCEPTS LLC**  
Employer

**APPEAL NO. 21A-UI-22708-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20**  
**Claimant: Appellant (1R)**

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Iowa Code Section 96.4(3) – Able & Available

**STATEMENT OF THE CASE:**

The claimant, Tyler Summers, filed a timely appeal from the October 1, 2021, reference 03, decision that denied benefits effective March 22, 2020, based on the deputy's conclusion that the claimant was unduly limiting his availability for work due to a lack of adequate childcare. After due notice was issued, a hearing was held on December 6, 2021. Claimant participated. Chelsea Wallace represented the employer. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, DBIN, KPYX, WAGE-A, NMRO and the administrative law judge decision in Appeal Number 21A-UI-14634-AW-T.

**ISSUES:**

Whether the claimant was able to work and available for work for the period beginning March 22, 2020.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant, Tyler Summers, established an original claim for benefits that was effective March 22, 2020. Iowa Workforce Development set the weekly benefit amount at \$256.00. The claimant made weekly claims for each of the weeks between March 22, 2020 and the March 20, 2021 end of the benefit year. The claimant received regular benefits through the week that ended July 4, 2020. The claimant received Pandemic Emergency Unemployment Compensation (PEUC) benefits for each of the weeks between July 05, 2020 and October 3, 2020. The claimant received Pandemic Unemployment Assistance (PUA) benefits for each of the weeks between October 4, 2020 through December 19, 2020. The claimant did not receive benefits for the week that ended December 26, 2020. The claimant received additional PEUC benefits for each of the weeks between December 27, 2020 and the March 20, 2021 end of the benefit year. The claimant received Federal Pandemic Unemployment Compensation (FPUC) benefits for the weeks between April 5, 2020 and July 25, 2020 and for the weeks between December 27, 2020 through the March 20, 2021 end of the benefit year.

The claimant has at all relevant times been the custodial parent of a school aged child. The child attended elementary school in Illinois. The claimant has at all relevant times resided in Illinois. Pursuant to the custody agreement, the claimant is limited to utilizing an Illinois licensed day care provider as alternate care for his daughter. The child's mother resides in Florida.

At the time the claimant established the original claim for benefits that was effective March 22, 2020, the claimant was employed by KPI Concepts, L.L.C. as a full-time machine operator. The claimant's work hours were 7:30 a.m. to 4:30 p.m., Monday through Friday. The claimant began that employment in June 2019 and last performed work for the employer on Monday, March 23, 2020.

After the claimant worked on March 23, 2020, he went off work due to a need to care for and supervise his seven-year-old daughter. The child's school had discontinued in-person classes in response to the COVID-19 pandemic. In connection with the closure, the school district transitioned to online, remote learning. The claimant lacked alternate childcare for his daughter and needed to assist his daughter with the online curriculum. The claimant had previously used an after-school program to provide care for his daughter after his daughter finished school and while the claimant was still at work. On April 30, 2020, the employer requested that the claimant return to work, but the claimant responded he was unable to return due to a lack of childcare. See Appeal Number 21A-UI-14634-AW-T, p. 1. On May 21, 2020, the employer directed the claimant to return to work by May 28, 2020 or be deemed to have abandoned the employment. *Id.* The claimant did not return to work. *Id.* When the claimant did not return to work, the employer deemed the employment terminated. See Appeal Number 21A-UI-14634-AW-T, p. 2. The claimant remained off work to care for and supervise his daughter through the end of the 2019-2020 academic year, which ended in June 2020.

The claimant had previously utilized a school sponsored summer program as a daycare provider during the summer academic break. The school-sponsored childcare program was not available once the district closed in response to the COVID-19 pandemic.

The claimant continued to be off work due to a need to care and supervise his daughter through the March 20, 2021 end of the benefit year. When the 2020-2021 academic year started, the claimant's child's school used a hybrid learning approach whereby the claimant's daughter attended in-person classes two or three days per week and participated in remote learning for the remainder of the days. This continued through the end of the 2020-2021 academic year in June 2021.

The claimant did not commence a work search during the benefit year that started March 22, 2020 and that ended on March 20, 2021. During the period of April 1, 2020 through September 5, 2020, Iowa Workforce Development waived the work search requirement for all claimants. Though the claimant's daughter was in school part-time from August 2020 onward, the claimant did not seek part-time employment for when the child was in school.

#### **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(8) and (10) provides:

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

(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

...

(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 was not available for work within the meaning of the law during the period that began March 22, 2020 through the benefit year that ended March 20, 2021. During that time the claimant unduly restricted his availability for work due to a lack of adequate childcare. In addition, during the period of March 22, 2020 through May 28, 2020, the claimant was on an approved leave of absence. The claimant is not eligible for benefits for the period beginning March 22, 2020 through the benefit year that ended March 20, 2021.

This matter will be remanded to the Benefits Bureau for entry of a decision, if appropriate, regarding the claimant's availability for work during the period beyond the March 20, 2021 end of benefit year date.

**DECISION:**

The October 1, 2021, reference 03, decision is affirmed. The claimant did not meet the availability requirement for the period beginning March 22, 2020 and through the March 20, 2021 benefit year end date. The claimant is not eligible for benefits for that period.

This matter is **remanded** to the Benefits Bureau for entry of a decision, if appropriate, regarding the claimant's availability for work during the period beyond the March 20, 2021 end of benefit year date.

This matter is **remanded** to the Benefits Bureau for further appropriate action on the claimant's previously filed application for Pandemic Unemployment Assistance (PUA) benefits.



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James E. Timberland  
Administrative Law Judge

January 7, 2022  
Decision Dated and Mailed

jet/mh

*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>.