

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TABETHA J YANDA
Claimant

TIMBERLINE MANUFACTURING COMPANY
Employer

APPEAL 21A-UI-10762-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/15/20
Claimant: Appellant (4)

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:

Tabetha J Yanda, the claimant/appellant, filed an appeal from the April 8, 2021, (reference 01) unemployment insurance decision that denied benefits as November 15, 2020. The parties were properly notified about the hearing. A telephone hearing was held on June 17, 2021. Ms. Yanda participated and testified. The employer participated through Lisa Cook, vice president of finance and human resources. Employer's Exhibit 1 was admitted into evidence.

ISSUE:

Is Ms. Yanda able to and available for work?
Is Ms. Yanda on a leave of absence?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Ms. Yanda began working for the employer on July 30, 2012. She works as full-time material handler. Ms. Yanda is the parent of a child, age three.

The evening of November 9, 2020, Ms. Yanda learned that her child's daycare provider had tested positive for COVID-19. On November 10, Ms. Yanda told the employer the situation and stayed home from work. On November 11, Ms. Yanda's doctor advised that her child self-quarantine for 14 days since her child had been exposed to someone who had tested positive for COVID-19. Ms. Yanda gave the employer the doctor's note and did not attend work to care for her child. Ms. Yanda was to return to the work on November 25 but November 25, 26 and 27 are paid holidays for the employer. Ms. Yanda returned to work on November 30.

Ms. Yanda had previously been paid eight days of Families First Coronavirus Response Act (FFCRA) pay. The employer paid Ms. Yanda FFCRA pay for November 16 and 17 and holiday pay for November 25, 26 and 27.

On, or about, March 19, 2021, Ms. Yanda's child tested positive for COVID-19. Ms. Yanda told the employer. Ms. Yanda's child's doctor advised that Ms. Yanda's child should self-quarantine

for 14 days. Ms. Yanda did not attend work to care for her child. Ms. Yanda returned to work on April 6. Ms. Yanda was not paid any wages for this time period.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Yanda is not able to and available for work from November 15, 2020, the effective date of her claim, through November 28, 2020, and she is not able to and available for work from March 19, 2021 through April 5, 2021.

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(8) 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.

Here, Ms. Yanda was on a leave of absence due to her child's health issues from November 15, 2020 through November 28, 2020 and from March 19, 2021 through April 5, 2021. Ms. Yanda has not established that she is able to and available for work during this time period, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, Ms. Yanda is not eligible for regular, state-funded unemployment insurance benefits from November 15, 2020 through November 28, 2020, and from March 19, 2021 through April 5, 2021.

DECISION:

The April 8, 2021, (reference 01) unemployment insurance decision is modified in favor of the appellant, Ms. Yanda. Ms. Yanda is not able to and available for work from November 15, 2020 through November 28, 2020, and from March 19, 2021 through April 5, 2021. Regular, state-funded unemployment insurance benefits are denied during these weeks.



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June 30, 2021
Decision Dated and Mailed

dz/scn