

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JACK D WILKES
Claimant

LOWE'S HOME CENTERS LLC
Employer

APPEAL 20A-UI-06284-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/12/20
Claimant: Appellant (4R)

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

STATEMENT OF THE CASE:

The claimant/appellant, Jack D. Wilkes, filed an appeal from the June 12, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 21, 2020. The claimant participated personally. The employer, Lowe’s Home Centers LLC, did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records. Claimant Exhibit A was admitted. 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.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has worked for employer for approximately fourteen years. Most recently, the claimant works for the employer as an associate III, part-time, in the plumbing department. The claimant also works part-time as a yoga instructor at Ames Racquet and Fitness, and also is self-employed, teaching art.

The claimant established his claim with an effective date of April 12, 2020. The claimant requested time off of work from April 9, 2020 through April 23, 2020 due to personal medical issues. He returned to work April 24, 2020 and has been able to perform his job duties without restrictions. He is working all available shifts, and has not refused any work. Since returning to work at Lowe’s Home Centers LLC., his hours have varied and been reduced.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is able to and available for work effective April 24, 2020. The claimant was not able and available April 12-23, 2020.

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 96.1A, subsection 38, paragraph "b", subparagraph (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(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.

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

From April 12 through April 23, 2020, the claimant was not able and available for work due to personal, medical issues. As such, benefits are denied during this period.

Effective April 24, 2020, the claimant has no medical restrictions and has been able to perform work. He is therefore eligible for benefits beginning April 24, 2020, provided he meets all other requirements.

The issue of whether the claimant is partially unemployed effective April 24, 2020, due to his reduction in hours at Lowe's Home Centers LLC., is remanded to the Benefits Bureau for an initial investigation and decision.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law from April 12, 2020 through April 23, 2020, he 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 unemployment insurance decision dated June 12, 2020, (reference 01) is modified in favor of the claimant/appellant. The claimant is not able and available for work April 12-23, 2020 due to personal medical issues. Benefits are denied for this period only. Effective April 24, 2020, the claimant is able and available for work. Benefits are allowed, provided he is otherwise eligible.

REMAND:

The issue of whether the claimant is partially unemployed effective April 24, 2020, due to his reduction in hours at Lowe's Home Centers LLC., is remanded to the Benefits Bureau for an initial investigation and decision.

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

If you have applied and have been approved for PUA benefits, this decision will not negatively affect your entitlement to PUA benefits.



Jennifer L. Beckman
Administrative Law Judge
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July 29, 2020
Decision Dated and Mailed

jlb/sam