

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

**SUZANNE D REID**  
Claimant

**APPEAL NO: 20A-UI-08760-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MENARD INC**  
Employer

**OC: 03/29/20**  
**Claimant: Appellant (1R)**

871 IAC 24.23(10) – Leave of Absence  
Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 27, 2020, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 8, 2020. The claimant participated in the hearing. Travis Hewitt, DePal Department Manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant was able and available for work and whether she was on a leave of absence.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a full-time general laborer for Menards January 3, 2008. She works Monday through Friday, from 7:00 a.m. to 3:30 p.m. The claimant was exposed to COVID-19 and the employer instructed her she needed to self-quarantine for two weeks. She was placed on a leave of absence from April 1 through April 15, 2020. She used four vacation days during that two-week time frame. On May 6, 2020, the claimant went to see her physician for a sinus infection and was told she should stay home from May 6 through May 13, 2020.

The claimant has claimed and received benefits in the amount of \$6,819.00 for the 16 weeks ending July 18, 2020. She has also received \$9,600.00 in Federal Pandemic Unemployment Compensation for the 16 weeks ending July 21, 2020.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is not able and available for work and did take a leave of absence.

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(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. 871.24.23(23) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant was exposed to COVID-19 and was required to self-quarantine. As a result, she was placed on a leave of absence from April 1 through April 15, 2020. The claimant then had a sinus infection and her doctor took her off work from May 6 through May 13, 2020. The claimant is not considered able and available for work when she is on a leave of absence.

All of the other weeks between April 4 and July 18, 2020, the claimant was working her regular full-time hours and is not considered able and available for work during those times because she was working to such an extent that it removed her from the labor market.

Accordingly, benefits are denied.


The issue of the claimant's overpayment of benefits is remanded to the Benefits Bureau for an initial investigation and determination.

#### **DECISION:**

The July 27, 2020, reference 01, decision is affirmed. The claimant is not able and available for work. Benefits are denied until the claimant makes herself able and available for work and the employer has no comparable or suitable work available.

**REMAND:**

The issue of the claimant's overpayment of benefits is remanded to the Benefits Bureau for an initial investigation and determination.



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Julie Elder  
Administrative Law Judge

September 9, 2020  
Decision Dated and Mailed

je/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. 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>.