

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**LISA A KETCHUM**  
Claimant

**APPEAL NO. 20A-UI-09287-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WILLOWBROOK FOOD INC**  
Employer

**OC: 04/19/20**  
**Claimant: Appellant (5)**

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Iowa Code Section 96.4(3) – Able & Available  
Iowa Code Section 96.19(38) – Temporary and Partial Unemployment

**STATEMENT OF THE CASE:**

Lisa Ketchum filed a timely appeal from the July 31, 2020, reference 01, decision that denied benefits effective April 19, 2020, based on the deputy's conclusion that Ms. Ketchum requested and was granted a leave of absence, was voluntarily unemployed, and was unavailable for work. After due notice was issued, a hearing was held on September 21, 2020. Ms. Ketchum participated. Vickie Piper, General Manager, represented the employer. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

**ISSUES:**

Whether the claimant was able to work and available for work during the benefit week that ended April 25, 2020.

Whether the claimant requested and was granted a leave of absence for the week that ended April 25, 2020.

Whether the claimant was partially and/or temporarily unemployed during the benefit week that ended April 25, 2020.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Lisa Ketchum is employed by Willowbrook Food, Inc., doing business as McDonald's, as a full-time crew trainer. Ms. Ketchum's hourly wage during the period in question was \$11.80. Ms. Ketchum generally worked 4:00 p.m. to 12:30 a.m. or 1:00 a.m. five days a week. Thursday and Saturday were her usual days off. Vickie Piper is General Manager at the Mason City McDonald's where Ms. Ketchum performed her work. Nancy Carroll is the business owner.

On Sunday, April 19, 2020, Ms. Ketchum left work early due to illness. Swing Manager Joanne Willis was the manager on duty at the time. Ms. Ketchum had a cough. In light of the COVID-19 pandemic, Ms. Willis suggested that Ms. Ketchum call her doctor about her cough. On Monday, April 20, 2020, Ms. Ketchum contacted her doctor, who referred her to a coronavirus hotline. Before Ms. Ketchum got tested for COVID-19, she called the workplace

and spoke to a shift manager regarding the employer's quarantine policy. The shift manager knew there was a quarantine policy, did not know the particulars, but agreed to alert Ms. Piper and other managers that Ms. Ketchum would be absent from work that day. On Tuesday, April 21, 2020, Ms. Ketchum submitted to specimen collection as part of COVID-19 testing. Ms. Ketchum did not immediately learn the results of the testing. On that same day, Ms. Carroll called Ms. Ketchum and told her she would need to stay away from work at least until she received her COVID-19 test results. On Thursday, April 23, Ms. Ketchum was on the phone with Ms. Carroll when she received the phone call regarding her COVID-19 test being negative. Ms. Ketchum immediately notified Ms. Carroll of the result. Ms. Carroll told Ms. Ketchum that she would need to stay off work through Sunday, April 26, 2020 and could return to work on Monday, April 27, 2020. Though Ms. Ketchum was not ill and was ready to get back to work, she complied with the directive and returned to work on April 27, 2020. The employer paid Ms. Ketchum for the eight hours she worked on Sunday April 19, 2020 and paid Ms. Ketchum 40 hour in Families First Coronavirus Response Act (FFCRA) sick pay for the time Ms. Ketchum was off work between April 20 and April 26, 2020.

Ms. Ketchum established an original claim for benefits that was effective April 19, 2020. Iowa Workforce Development set her weekly benefit amount at \$262.00. Willowbrook Food is the sole base period employer. Ms. Ketchum made a weekly claim for the week that ended April 25, 2020. IWD paid Ms. Ketchum \$262.00 in regular benefits and \$600.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for the week that ended April 25, 2020. Ms. Ketchum then discontinued her claim for benefits.

#### **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(1)a 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.

Iowa Admin. Code r. 871-24.22(2) provides, in relevant part, as follows:

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.

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 Code section 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual

worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

The weight of the evidence establishes that Ms. Ketchum was able to work and available for work during the major portion of the week that ended April 25, 2020. Ms. Ketchum did not request a leave of absence and was not on a leave of absence during that week. Ms. Ketchum cannot be considered temporarily laid off or partially unemployed during the week that ended April 25, 2020 because the employer paid her regular full-time wages in sick pay. Ms. Ketchum is not eligible for benefits for the week that ended April 25, 2020.

**DECISION:**

The July 31, 2020, reference 01, decision is modified as follows. The claimant was able to work and available for work during the week that ended April 25, 2020. However, the claimant was neither temporarily laid off nor partially unemployed during that week and, therefore, is not eligible for benefits for the week that ended April 25, 2020.



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James E. Timberland  
Administrative Law Judge

September 24, 2020  
Decision Dated and Mailed

jet/scn

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits under state law for the week that ended April 25, 2020. 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 under state law 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.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you will be required to repay the benefits you have received.**