

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**VICKY ANDRADE**  
Claimant

**APPEAL NO: 20A-UI-09980-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SEABOARD TRIUMPH FOODS LLC**  
Employer

**OC: 05/17/20**  
**Claimant: Appellant (1)**

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 August 7, 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 October 5, 2020. The claimant participated in the hearing with Attorney Al Sturgeon and CTS Language Link Interpreter Paulette (12996). The employer did not respond to the hearing notice and did not participate in the hearing.

**ISSUES:**

The issue is whether the claimant is 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 traveled to Mexico for her father's funeral and when she returned she was told to self-quarantine for two weeks. On May 16, 2020, the claimant was sent for COVID-19 testing and was notified her test was negative May 21, 2020. The claimant returned to work May 27, 2020, and began feeling ill May 31, 2020. On June 1, 2020, she went to have another COVID-19 test and on June 6, 2020, she tested positive.

The claimant returned to work August 17, 2020, but was in pain. On August 19, 2020, she was placed on the packing line but could not perform the work and the employer sent her home August 19, 2020.

Despite being denied benefits at the initial fact-finding, the decision was made by Iowa Workforce Development to release funds of the claimants while their appeals were pending due to the backlog in appeals caused by the recent COVID 19 outbreak. The claimant was one of the individuals whose funds were released pending appeal. The administrative record shows the claimant filed for and received a total of \$3,770.00 in unemployment insurance benefits for the ten weeks ending August 1, 2020.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was not able and available for work and did take a leave of absence from May 13 through August 16, 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 96.19, 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.

The claimant was diagnosed with COVID-19 and experienced respiratory problems throughout the summer of 2020. She went on a leave of absence May 13, 2020, and returned to work August 17, 2020. During the time the claimant was off work, she is not considered able and available for work and is not eligible for state unemployment insurance benefits. Accordingly, benefits are denied.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she 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 she is eligible for such compensation for the week claimed. The claimant does not have to be able and available for work to be eligible for the federal unemployment programs. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

**DECISION:**

The August 7, 2020, reference 01, decision is affirmed. The claimant is not able and available for work from May 17, 2020 through the week ending August 15, 2020. The claimant is not able to work and available for work effective May 17, 2020. Benefits are withheld until such time as the claimant makes herself available for work to the extent she was available during the base period history and the employer has no suitable or comparable work available.



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Julie Elder  
Administrative Law Judge

October 7, 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>.