

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TAKAYSHA JOHNSON
Claimant

SAFELITE SOLUTIONS LLC
Employer

APPEAL 20A-UI-08573-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/03/20
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Admin. Code r. 871-24.23(10) – Availability Disqualifications – Leave of Absence

STATEMENT OF THE CASE:

The claimant/appellant, Takaysha Johnson, filed an appeal from the July 10, 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 August 31, 2020. The claimant participated personally. The employer, Safelite Solutions 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. 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.

ISSUES:

Is the claimant able to and available for work?
Is the claimant on a leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has worked for employer since 2018. Most recently, the claimant works for the employer as a part-time customer service representative (CSR). The claimant last performed work on April 28, 2020.

The claimant did not work after April 28, 2020 because she was sick with COVID-19 symptoms, was quarantining and under medical care. Her doctor released her without restrictions effective August 17, 2020 (Claimant Exhibit 1). On August 25, 2020, she contacted the Reed Group, through the employer, to provide her medical release. As of the hearing date, August 31, 2020, no return to work was agreed upon. The claimant is able and available to work without restrictions at this time.

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 96.1A, 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(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

For an individual to be eligible to receive benefits, she 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 she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

Iowa Admin. Code r. 24.22(2) provides:

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. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is

For the period of May 3, 2020 through August 25, 2020, the claimant was off work, on a negotiated leave of absence and under medical care. On August 25, 2020, she contacted the employer's administrator to notify of the release from restrictions and medical care. Because she was on a leave of absence during this period, she is ineligible for benefits.

Effective August 26, 2020, the claimant has presented the employer (through its leave of absence administrator) proof that she can return work, is able to work and willing to work. No work had been offered as of August 31, 2020. At this time, the employer has failed to reemploy the claimant, and therefore she is considered laid off and eligible for benefits. Benefits are allowed effective August 26, 2020, provided she meets all other requirements.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law from May 3, 2020 through August 25, 2020, he/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 he or she is eligible for such compensation for the week claimed.

DECISION:

The July 10, 2020 (reference 01) initial decision is modified in favor of the claimant. The claimant is denied benefits May 3, 2020 through August 25, 2020 due to being on a leave of absence and under medical care. Effective August 26, 2020, the claimant is able and available for work. Benefits are allowed, provided she is otherwise eligible.

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
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September 8, 2020
Decision Dated and Mailed

jlb/scn