

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANA R COOK
Claimant

AL'S CORNER OIL CO
Employer

APPEAL 20A-UI-06869-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/19/20
Claimant: Appellant (1)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Dana Cook (claimant) appealed a representative's June 15, 2020, decision (reference 02) that concluded ineligibility to receive unemployment insurance benefits as of May 24, 2020, because of unavailability for work for Al's Corner Oil (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 30, 2020. The claimant participated personally. The employer participated by Cindy Tiefenthaler, Officer Manager. The administrative law judge took official notice of the administrative file.

ISSUE:

The issue is whether the claimant was able and available for work as of May 24, 2020.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 11, 2019, as a part-time deli worker. The claimant completed paperwork to take a leave of absence starting on March 31, 2020. He took the leave because of Covid-19 and his medical conditions.

On May 11, 2020, his physician wrote him a note saying he could not work until further notice. The supervisor did not see the note and called the claimant to inquire if he wanted to return to work. The claimant worked on May 25, 29, 30, and June 1, 2020, against doctor's orders. He quit work because he could not work with his medical conditions. Continued work was available had the claimant not resigned.

The claimant filed for unemployment insurance benefits with an effective date of April 19, 2020. His weekly benefit amount was determined to be \$318.00. The claimant received no state unemployment insurance benefits or Federal Pandemic Unemployment Compensation after April 19, 2020.

REASONING AND CONCLUSIONS OF LAW:

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.

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.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When employees are unable to perform work due to a medical condition, they are considered to be unavailable for work. The claimant had a doctor's note indicating he was unable to work as of May 11, 2020. That doctor's note is "prima facie evidence" of the claimant's ability to work. He has not been released to return to work. The claimant is disqualified from receiving unemployment insurance benefits beginning May 24, 2020, due an inability to work.

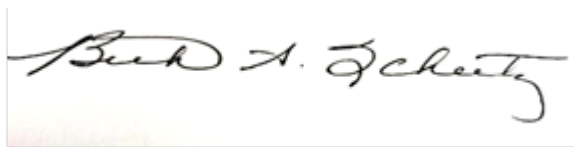
Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates 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 representative's June 15, 2020, decision (reference 02) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because of a medical inability to work for the employer. Benefits are denied as of May 24, 2020.

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 due to disqualifying separations, 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>.



Beth A. Scheetz
Administrative Law Judge

August 4, 2020
Decision Dated and Mailed

bas/scn