

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**PATRICK O GRIFFITH**  
Claimant

**ALL CARE HEALTH CENTER**  
Employer

**APPEAL 20A-UI-10159-S1-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/19/20**  
**Claimant: Appellant (2)**

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Iowa Code § 96.4-3 – Able and Available  
871 IAC 24.23(10) – Voluntary Leave of Absence

**STATEMENT OF THE CASE:**

Patrick Griffith (claimant) appealed a representative's July 30, 2020, decision (reference 01) that concluded ineligibility to receive unemployment insurance benefits as of April 19, 2020, because a leave of absence was granted by All Care Health Center (employer) at the claimant's request. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 7, 2020. The claimant participated personally. The employer participated by Gina Kein, Human Resources Director. The administrative law judge took official notice of the administrative file.

**ISSUE:**

The issue is whether the claimant is available for work and whether the claimant was on an approved leave of absence.

**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 July 18, 2013, as a part-time pharmacist. On March 19, 2020, the pharmacy director told the claimant to stay home. There was no work available for the claimant from March 19, 2020, until the week ending July 18, 2020. The employer did not schedule the claimant for work for the week ending July 25, 2020, because it had no work for the claimant. The claimant returned to work on July 28, 2020.

The claimant filed for unemployment insurance benefits with an effective date of April 19, 2020. His weekly benefit amount was determined to be \$448.00. The claimant received benefits of \$448.00 per week for thirteen weeks from April 19, 2020, to the week ending July 25, 2020. This is a total of \$5,824.00 in state unemployment insurance benefits after the separation from employment. He also received \$7,800.00 in Federal Pandemic Unemployment Compensation for the thirteen-week period ending July 25, 2020.

## REASONING AND CONCLUSIONS OF LAW:

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.

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".

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). The claimant was totally unemployed because the employer did not have work for the claimant. There has been no evidence offered that the claimant was not able and available for work after April 19, 2020. Benefits are allowed, provided the claimant is otherwise eligible.

**DECISION:**

The representative's July 30, 2020, decision (reference 01) is reversed. The claimant is considered to be available for work from April 19, 2020. Benefits are allowed, provided the claimant is otherwise eligible.

A handwritten signature in cursive script that reads "Beth A. Scheetz". The signature is written in black ink on a light-colored background.

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Beth A. Scheetz  
Administrative Law Judge

October 9, 2020  
Decision Dated and Mailed

bas/sam