

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SANDRA K SPIDLE
Claimant

APPEAL 21A-UI-01151-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CONSOLIDATED ELECTRICAL DIST INC
Employer

OC: 08/23/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available
Iowa Admin Code r. 871-24.23(10)

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the December 3, 2020 (reference 01) unemployment insurance decision that found claimant was ineligible for unemployment benefits because she was not able to perform work. The parties were properly notified of the hearing. A telephone hearing was held on February 16, 2021. The claimant, Sandra K Spidle, participated personally. The employer, Consolidated Electrical Dist. Inc, participated through witness Liz Allsup. Claimant's Exhibit A was admitted into evidence. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUE:

Is the claimant able to work and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full-time for this employer from December 31, 2018 until the present time. Claimant was working full-time for this employer as an assembly technician.

On August 20, 2020 claimant became ill with Covid-19. Claimant was hospitalized and unable to work. She did not return to work until she was released by her doctor on October 1, 2020. See Exhibit A. On October 1, 2020, claimant returned to work her normal hours and has continued to do so.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able to and available for work from August 23, 2020 until October 1, 2020.

Iowa Code § 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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

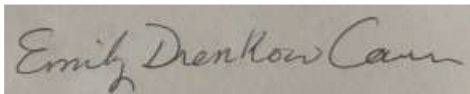
To be able to work, "[a]n individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood." *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1). "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides." *Sierra* at 723. The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that "[i]nsofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

Because the claimant was diagnosed with Covid-19 and hospitalized, she was not able and available to work August 23, 2020 until October 1, 2020. Because her medical condition was not work-related and the treating physician has released the claimant to return to work, she has established her ability to work effective October 1, 2020.

DECISION:

The December 3, 2020 (reference 01) unemployment insurance decision is affirmed. The claimant is not able to work due to her Covid-19 diagnosis and hospitalization from August 23, 2020 until October 1, 2020. Beginning October 1, 2020 claimant has established her ability to work.

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>.



Emily Drenkow Carr
Administrative Law Judge

February 26, 2021
Decision Dated and Mailed

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