

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SANDRA K FRAZER**  
Claimant

**NORDSTROM INC**  
Employer

**APPEAL NO: 20A-UI-10701-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/14/20**  
**Claimant: Appellant (1R)**

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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 26, 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 20, 2020. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing.

**ISSUE:**

The issue is whether the claimant is able and available for work and whether she is on a leave of absence.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired by Nordstrom as a full-time customer service representative II. She lost her voice in March 2018 and experienced benign tumors in her neck and on her tongue. She was eventually diagnosed with strained vocal cords and sent to speech therapy. The employer accommodated the claimant's condition by allowing her to opt out of phone calls and instead handle chat and email conversations. The claimant was also sent to speech therapy during the spring of 2020. Additionally, her sister-in-law of 47 years died and the claimant was in a deep depression and suffered from anxiety. She was off work from May 24 through July 2, 2020. She was released without restrictions to return to work July 3, 2020. The claimant's physician sent the employer FMLA paperwork June 11, 2020, and the employer terminated the claimant's employment June 12, 2020.

There are issues regarding the claimant's separation from this employer that have not yet been heard or adjudicated by the Benefits Bureau.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able and available for work and did take a leave of absence.

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 on a leave of absence from May 25 through June 12, 2020 at which time her employment was terminated. She is not considered able and available for work while on a leave of absence. In order to be eligible for benefits, a claimant must be able and available for work. The claimant was not able and available for work from May 25 through July 2, 2020, as her doctor did not release her to return to work until July 3, 2020. She filed her claim with an effective date of June 14, 2020. Therefore, benefits must be denied for the three weeks ending July 4, 2020.

The issue of the claimant's separation from this employer is remanded to the Benefits Bureau for an initial determination and adjudication.

**DECISION:**

The August 26, 2020, reference 01, decision is affirmed. The claimant is not able and available for work and did take a leave of absence effective June 14, 2020 through the week ending July 4, 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 comparable or suitable work available.

**REMAND:**

The issue of the claimant's separation from this employer is remanded to the Benefits Bureau for an initial determination and adjudication.



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Julie Elder  
Administrative Law Judge

October 22, 2020  
Decision Dated and Mailed

je/mh