

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

SCOTT A MACTAGGART
Claimant

APPEAL NO: 20A-UI-06612-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DENISE CARNAHAN
Employer

OC: 01/12/20
Claimant: Appellant (1)

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 June 15, 2020, reference 02 decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 27, 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 issues are whether the claimant was able and available for work and whether he was on a leave of absence.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant requested and was given a leave of absence because his girlfriend tested positive for COVID-19 and he was exposed April 23, 2020. On April 29, 2020, the claimant's girlfriend received her COVID-19 test results which were positive. After quarantining for two weeks the claimant's girlfriend was still symptomatic and they were quarantined for an additional 14 days May 7, 2020. The claimant was scheduled to have dental surgery in Iowa City and his surgery was cancelled due to his exposure. On May 21, 2020, the claimant's dentist scheduled another COVID-19 test for him June 11, 2020, the day before his surgery was scheduled. He was told to isolate until his surgery. The claimant was forced to cancel his surgery June 12, 2020, because he had to use the money he saved to live on because he was off work April 23 through June 18, 2020.

The claimant has not received benefits since reopening his claim April 26, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was 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 requested and was given a leave of absence due to his girlfriend's positive COVID-19 test and being told to isolate by his dental surgeon. He was off work from April 23 through June 18, 2020, and was not considered able and available for work during that time. In order to receive state unemployment insurance benefits, a claimant must be able and available for work. Because the claimant was on a leave of absence, he is not considered able and available for work. Therefore, benefits must be denied.

Even though the claimant is not eligible for regular, state-funded 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 does not have to be able and available for work to be eligible for the federal unemployment programs. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

DECISION:

The June 15, 2020, reference 02, decision is affirmed. The claimant is not able to work and available for work effective April 26, 2020. Benefits are withheld until such time as the claimant makes himself available for work to the extent he was available during the base period history and the employer has no suitable or comparable work available.



Julie Elder
Administrative Law Judge

August 4, 2020
Decision Dated and Mailed

je/sam

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>.