

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DEBRA CLARK**  
Claimant

**KWIK TRIP INC**  
Employer

**APPEAL 21A-UI-04276-S2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20**  
**Claimant: Appellant (1R)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Availability Disqualifications

**STATEMENT OF THE CASE:**

On January 30, 2021, the claimant filed an appeal from the January 26, 2021, (reference 01) unemployment insurance decision that denied benefits based on a finding that the claimant was on an approved leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on April 6, 2021. Claimant Debra Clark participated. Employer Kwik Trip, Inc. participated through store leader Katrina Baker. Claimant's Exhibit A was introduced.

**ISSUES:**

Is the claimant able to and available for work?  
Is the claimant on a voluntary leave of absence?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on July 28, 2014. Claimant worked for employer as a part-time guest service worker until her separation October 7, 2020.

In March 2020, the United States declared a public health emergency because of the COVID-19 pandemic. Employer allowed employees to take a leave of absence if they were at a high-risk for contracting COVID-19. Claimant is at high risk for developing complications if she contracts the virus so she requested and was granted a leave of absence from March 25, 2020, through June 24, 2020. Claimant requested and was granted an additional leave of absence through August 24, 2020, which was extended a final time to October 7, 2020. Claimant provided doctor's notes to her employer in support of her leave requests. On October 7, 2020, employer ended claimant's employment.

There has been no initial investigation or decision regarding the issue of separation from employment.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work effective March 22, 2020.

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.


Here, claimant was on a leave of absence due to concerns about contracting COVID-19 in the workplace. Claimant has not established she is able to and available for work, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits from the effective date of the claim.

## **DECISION:**

The January 26, 2021, (reference 01) unemployment insurance decision is affirmed. Claimant was not available for work effective March 22, 2020, and regular, state-funded unemployment insurance benefits are denied. Claimant may be eligible for Pandemic Unemployment Assistance.

**REMAND:**

The issue of separation from employment is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



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Stephanie Adkisson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

April 12, 2021  
Decision Dated and Mailed

sa/scn

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**