

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MOISES CASTRO**  
Claimant

**TYSON FRESH MEATS INC**  
Employer

**APPEAL 20A-UI-10933-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/04/19**  
**Claimant: Appellant (1)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work

**STATEMENT OF THE CASE:**

On September 8, 2020, the claimant filed an appeal from the August 28, 2020, (reference 05) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on October 27, 2020. Claimant participated. Employer participated through human resource generalist Karina Mellado-Monroy. Claimant's Exhibit A was received. Employer's Exhibit 1 was received.

**ISSUE:**

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on August 12, 2019. Claimant works for employer as a full-time maintenance employee.

In March 2020, the United States declared a public health emergency because of the COVID 19 pandemic.

Claimant did not work from June 21, 2020, until July 2, 2020. Claimant tested positive for COVID 19 on June 21, 2020. Employer had a policy requiring claimant to be off work for ten days after testing positive for COVID 19. Claimant received short-term disability benefits for the time he was out of work.

**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 from June 21, 2020, through July 4, 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".

Here, claimant was not able to work because he tested positive for COVID 19. Even though employer prohibited him from working for 10 days after testing positive, no medical provider would have released claimant to return to work under the circumstances. Therefore, claimant is considered unable to work.

Even though claimant is not eligible for regular unemployment insurance benefits under state law, the claimant may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. The administrative law judge will include information about applying for the benefits under the CARES Act at the end of the decision, but cautions claimant that it is unlikely he will be eligible for the benefit after accurately reporting the amount of short-term disability benefits he received for the weeks in question—which are considered deductible from unemployment insurance benefits under Iowa Code chapter 96.

**DECISION:**

The August 28, 2020, (reference 05) unemployment insurance decision is affirmed. The claimant is not available for work effective June 21, 2020, and regular, state-funded unemployment insurance benefits are denied.

**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.**



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October 29, 2020  
Decision Dated and Mailed

cal/scn