

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

LESA A LARISON
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 21A-UI-14938-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/04/21
Claimant: Appellant (5)**

Iowa Code section 96.4(3) – Able and Available for Work
Iowa Admin. Code r. 871-24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

On July 1, 2021, Lesa Larison (claimant/appellant) filed an appeal from the June 24, 2021 (reference 02) unemployment insurance decision that denied benefits as of June 13, 2021 based on a finding claimant was not able to perform work due to surgery.

A telephone hearing was held on August 26, 2021. The parties were properly notified of the hearing. The claimant participated personally. Walmart Inc. (employer/respondent) participated by Manager Andrew Oldfather.

Claimant's Exhibits 1 and 2 were admitted. Official notice was taken of the administrative record.

ISSUES:

Is the claimant on an approved leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant's first day of employment was April 23, 2019. Claimant is still employed by employer as a full-time bakery/deli associate. The most recent day claimant worked on the job was April 4, 2021. Claimant requested and was granted a leave of absence from that date and continuing through at least September 6, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the June 24, 2021 (reference 02) unemployment insurance decision that denied benefits as of June 13, 2021 based on a finding claimant was not able to perform work due to surgery is MODIFIED with no change in effect. Claimant is ineligible for benefits effective April 4, 2021 due to requesting and being granted 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.

Claimant requested and was granted a leave of absence. In doing so, claimant made herself unavailable for work. Claimant is therefore not eligible for benefits during the period she is on a leave of absence.

DECISION:

The June 24, 2021 (reference 02) unemployment insurance decision that denied benefits as of June 13, 2021 based on a finding claimant was not able to perform work due to surgery is MODIFIED with no change in effect. Claimant is ineligible for benefits effective April 4, 2021 due to requesting and being granted a leave of absence.



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

August 31, 2021
Decision Dated and Mailed

abd/ol

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are 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.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.