

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

SIERRA H HALL
Claimant

APPEAL NO. 21A-UI-07007-B2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ANKENY LIL TOTS DAYCARE
PRESCHOOL**
Employer

OC: 06/07/20
Claimant: Appellant (4)

Iowa Admin. Code ch. 871 r. 24.23(10) – Leave of Absence
Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 4, 2021 reference 02, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on May 18, 2021. Claimant participated personally. Employer participated by Erica Abbot.

ISSUE:

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant works as a full time assistant teacher for employer. While at work claimant was exposed to a child who was positive for Covid. Claimant was asked by employer to quarantine. Claimant was off from work from October 26-30, 2020. During this time, claimant was able and available to work if employer had not asked her to be off from work.

It appears claimant misfiled for benefits as she stated that she was on vacation during the period she was quarantining.

REASONING AND CONCLUSIONS OF LAW:

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.

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. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Inasmuch as the claimant was at all times able and available to work and had not asked for a leave, the claimant has established the ability to work for the week of October 25-30, 2020. Benefits shall be allowed effective October 25, 2020 if the claimant is otherwise eligible for benefits.

DECISION:

The decision of the representative dated March 4, 2021, reference 02 is modified in favor of the claimant. Claimant is eligible to receive unemployment insurance benefits, effective October 25, 2020, provided claimant meets all other eligibility requirements.



Blair A. Bennett
Administrative Law Judge

May 24, 2021
Decision Dated and Mailed

bab/ol