

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**RACHEL J WEST**  
Claimant

**AW STARK INC**  
Employer

**APPEAL 21R-UI-19374-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/07/20**  
**Claimant: Respondent (4)**

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Iowa Code section 96.4(3) – Eligibility – Able and Available for Work

**STATEMENT OF THE CASE:**

On April 8, 2021, A.W. Stark Inc., (employer/appellant) filed an appeal from the April 6, 2021 (reference 03) unemployment insurance decision that allowed benefits beginning June 7, 2020 based on a finding claimant was able and available for work.

A telephone hearing was set for June 25, 2021 at 1 p.m. The parties were properly notified of the hearing. Employer did not register a number for the hearing and a default decision was entered. Employer appealed the default decision to the Employment Appeal Board, which remanded for a new hearing.

A telephone hearing was held on October 22, 2021. The parties were properly notified of the hearing. Employer participated by Recruitment and Engagement Coordinator Becky Weaver. Rachel West (claimant/respondent) did not register a number for the hearing or participate. Employer's Exhibits 1 and 2 were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Is the claimant able and available for work?

**FINDINGS OF FACT:**

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

Claimant's first day of employment was February 3, 2020. Claimant was hired as a part-time caregiver. There were no guaranteed hours in this position, but she typically worked Sundays, Mondays, and Wednesdays. The last day claimant worked on the job was February 3, 2021.

Claimant filed a claim for benefits from the benefit week ending June 13, 2020 through the benefit week ending February 6, 2021. There was less work available for claimant in June, July, August, and part of September 2020. Claimant did not request time off during this period. She returned to her normal schedule at that time and continued in that schedule until the last day worked. This is supported by the wages claimant reported when filing weekly claims.

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

For the reasons that follow, the April 6, 2021 (reference 03) unemployment insurance decision that allowed benefits beginning June 7, 2020 based on a finding claimant was able and available for work is MODIFIED in favor of appellant.

Iowa Code section 96.4(3) provides:

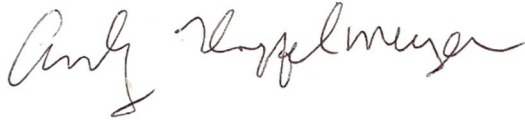
An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

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".

The administrative law judge finds claimant was able and available for work and eligible for benefits from the benefit week ending June 13, 2020 through the benefit week ending September 19, 2020. This is because claimant had established a consistent pattern of employment prior to this period and there was less work available for claimant during these weeks. She is not eligible for benefits in the weeks filed after that time due to being employed to such an extent as to be unavailable for work.

**DECISION:**

The April 6, 2021 (reference 03) unemployment insurance decision that allowed benefits beginning June 7, 2020 based on a finding claimant was able and available for work is MODIFIED in favor of appellant. Claimant is available for work and eligible for benefits from the week ending June 13, 2020 through the week ending September 19, 2020. She is ineligible for benefits in the weeks filed after that date.



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

November 1, 2021  
Decision Dated and Mailed

abd/kmj

**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>.