

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOSIE L WICKETT
Claimant

All ACQUISITIONS LLC
Employer

APPEAL 22A-UI-03531-AD-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/26/21
Claimant: Appellant (5)

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

STATEMENT OF THE CASE:

On January 24, 2022, Josie Wickett (claimant/appellant) filed an appeal from the Iowa Workforce Development decision dated January 20, 2022 (reference 02) that denied unemployment insurance decision benefits from December 26, 2021 through January 1, 2022 based on a finding claimant was unable to work the major portion of the week due to personal reasons and obligations.

A telephone hearing was held on March 11, 2022. The parties were properly notified of the hearing. The claimant participated personally. All Acquisitions LLC (employer/respondent) participated by HR Rep. Susan Miller.

Ms. Miller confirmed the address the notice of hearing was sent to was accurate. However, Ms. Miller stated employer did not receive notice of the hearing and was aware of it solely because Ms. Wickett alerted her. Ms. Miller determined she was nonetheless prepared to participate in the hearing and waived the 10-day notice requirement.

Official notice was taken of the administrative record.

ISSUES:

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's first day of employment was February 15, 2021. Claimant is still employed by employer as a full-time technician assistant. Employer informed its employees around the holidays that they could take unpaid leave during the week December 26, 2021 through January 1, 2022 if they wished to do so. Claimant decided to take the unpaid leave during that period. Claimant filed a claim for benefits in that week. There was work available had claimant not taken the leave.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the decision dated January 20, 2022 (reference 02) that denied unemployment insurance decision benefits from December 26, 2021 through January 1, 2022 based on a finding claimant was unable to work the major portion of the week due to personal reasons and obligations is MODIFIED with no change in effect.

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:

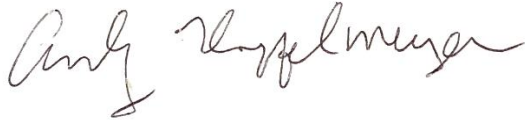
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(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 during the week in question. In doing so, claimant made herself unavailable for work during this time. There was work available for claimant had she not chosen to take the leave. Claimant is therefore not eligible for benefits during this period. The decision is modified solely to reflect claimant was unavailable for work rather than unable to work during the week in question.

DECISION:

The decision dated January 20, 2022 (reference 02) that denied unemployment insurance decision benefits from December 26, 2021 through January 1, 2022 based on a finding claimant was unable to work the major portion of the week due to personal reasons and obligations is MODIFIED with no change in effect. Claimant was unavailable for work and ineligible for benefits during the week filed.



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

March 23, 2022
Decision Dated and Mailed

abd/abd