

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**DAMEATRA SPEIRS**  
Claimant

**O'REILLY AUTOMOTIVE INC**  
Employer

**APPEAL NO. 21A-UI-03546-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/10/20  
Claimant: Appellant (2)**

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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 January 14, 2021 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on March 29, 2021. A companion matter (21-A-UI-03547) was scheduled at 2:00 pm. The companion matter dealt with the same issues over the same period of time and is duplicative. Employer did not appear for the 1pm hearing, but did appear for the 2pm hearing. The decision made in this matter is made from the testimonies derived from both the 1pm and 2pm hearings, and the 2pm decision will be dismissed as already addressed (21-A-UI-03547). Claimant participated personally. Employer participated by witness Julie Akers. CI Exhibits A-B and Employer's Exhibits 1-14 were admitted into evidence.

**ISSUES:**

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 picker for employer. In May and June 2020 claimant had two times where she was absent from work. The incident occurred around May 10 when claimant's father was found to be positive for Covid. As claimant lived with him, she reported her father's positive test to employer. Employer asked claimant to quarantine for two weeks in accordance with CDC guidance. Claimant did so, although she was not ill and willing to work the whole time.

Around June 15, 2020 claimant was told by employer that a coworker of claimant had Covid and claimant had potential exposure. Claimant was told to stay home until June 27, 2020. Claimant did so although she was not sick and did not test positive. Claimant was not asked by employer to be tested for Covid. At all times claimant remained able and available to work.

Claimant did not ask for a leave of absence to be entered on her part for either of these periods when she was asked not to come to work.

**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.

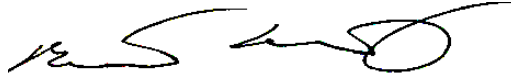
(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

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.

During each of the weeks in question, claimant was able and available for work and showed herself to employer as being willing to work. Claimant did not ask for a leave of absence to be created for her time off from work. Claimant's absences occurred because employer was complying with CDC guidelines. Benefits shall be allowed effective May 10, 2020 through June 20, 2020.

**DECISION:**

The decision of the representative dated January 14, 2021, reference 01 is reversed. Claimant is eligible to receive unemployment insurance benefits, effective May 10, 2020 as she was able and available to work, provided claimant meets all other eligibility requirements. It is noted that employer's requests that claimant stay home from work for both of the periods of absence were in accordance with CDC guidelines.



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Blair A. Bennett  
Administrative Law Judge

March 31, 2021  
Decision Dated and Mailed

bab/scn