

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTINA R JENNINGS

Claimant

APPEAL 21A-UI-00932-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MARTIN LUTHER HOME CORPORATION

Employer

OC: 07/12/20

Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

Claimant filed an appeal from the November 24, 2020, (reference 02) unemployment insurance decision that denied benefits. Iowa Workforce Development mailed a notice of hearing to claimant's last address of record. The parties were properly notified about the hearing. A telephone hearing was held on February 12, 2021. The claimant participated personally. The employer, Martin Luther Home Corporation., did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records. Claimant Exhibits A and B were admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the claimant able to work and available for work effective July 12, 2020?

Is the claimant voluntarily unemployed due to a requested leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed as a full-time CNA. She filed her claim with an effective date of July 12, 2020.

Claimant went to the doctor on July 13, 2020 to obtain an inhaler for her asthma. She did not request a test or present symptoms but was tested for COVID-19 as part of the healthcare provider's protocol at the time. Her doctor released her to return to work on July 16, 2020 (Claimant Exhibit A).

Claimant received her test results on July 14, 2020 and notified her employer. Even though she tested negative, employer would not permit her to return to work for 10 days after her test (Claimant Exhibit B). Effective July 24, 2020, claimant was permitted to return to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Admin. Code r. 871-24.23(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Iowa Code § 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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 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.

(emphasis added).

For an unemployed individual to be eligible to receive benefits, she must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

From July 13, 2020 through July 16, 2020, claimant was unable to perform work due to being under medical care. (Claimant Exhibit A). Because that is also the majority of a work-week, claimant was not eligible for benefits for the week of July 12-July 18, 2020. Benefits are denied for this week.

Effective July 17, 2020, claimant was able and available for work, but the employer would not allow her to work until July 24, 2020. Benefits are allowed for the week ending July 25, 2020,

provided claimant is otherwise eligible. Claimant's gross wages for this week will be considered when determining her eligibility.

DECISION:

The November 24, 2020 (reference 02) initial decision is modified in favor of the claimant:

Claimant was not able and available for the week ending July 18, 2020. Benefits are denied for this week.

Claimant was able and available for the week ending July 25, 2020. Benefits are allowed, provided she is otherwise eligible. Claimant's gross wages for this week will be considered when determining her eligibility.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

February 23, 2021
Decision Dated and Mailed

jlb/kmj

NOTE TO CLAIMANT:

This decision determines you are not eligible for regular unemployment insurance benefits for the week ending July 18, 2020. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. If you do not qualify for regular unemployment insurance benefits due to disqualifying separations and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). You will need to apply for PUA to determine your eligibility under the program. More information about how to apply for PUA is available online at:

www.iowaworkforcedevelopment.gov/pua-information

You may find additional information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>