

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JASHIRA M LOPEZ
Claimant

TEAM STAFFING SOLUTIONS INC
Employer

APPEAL 21A-UI-14403-AR-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/11/21
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871—24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

On June 22, 2021, the claimant, Jashira M. Lopez, filed an appeal from the June 15, 2021, (reference 01) unemployment insurance decision that denied benefits based on the determination that claimant was on an approved leave of absence from employment with the employer, Team Staffing Solutions, Inc., as of April 11, 2021. The parties were properly notified about the hearing. A telephone hearing was held on August 19, 2021. Claimant participated personally. The employer participated through Sarah Fiedler. Employer's Exhibits 1 through 4 were admitted to the record. The administrative law judge took official notice of the administrative record. CTS Language Link provided language services for claimant.

ISSUES:

Is the claimant able to and available for work?
Is the claimant on an approved leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began her employment with the employer on December 9, 2019. She remains employed by the employer as of the date of her hearing.

Prior to her leave, claimant last worked March 18, 2021. On March 22, 2021, claimant notified the employer that her daughter needed to quarantine due to contact with someone with COVID-19. She also notified the employer that her children's spring break would run from March 29, 2021, to April 2, 2021. She would need this time off to care for her children. Claimant was scheduled to return to work April 5, 2021, but did not do so. Around that time, the employer contacted claimant who said she needed to begin her FMLA maternity leave.

While claimant was out on leave, her doctor extended her leave due to a necessary medical procedure. He released claimant to return to work with no restrictions on July 19, 2021, which claimant did.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work effective April 11, 2021.

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 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. In doing so, claimant made herself unavailable for work during this time. Claimant is therefore not eligible for benefits during this period. As of July 19, 2021, she returned to work as before. Benefits are denied.

DECISION:

The June 15, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective April 11, 2021. Benefits are denied.



Alexis D. Rowe
Administrative Law Judge

August 24, 2021
Decision Dated and Mailed

ar/mh