

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JESSICA L SHORT
Claimant

WEST LIBERTY FOODS LLC
Employer

APPEAL 20A-UI-08571-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available for Work
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 14, 2020, (reference 01) unemployment insurance decision that denied benefits based on her not being able and available for work. The parties were properly notified about the hearing. A telephone hearing was held on September 1, 2020. The claimant participated in the hearing. Monica Dyar, Human Resources Supervisor, participated in the hearing on behalf of the employer.

ISSUES:

Whether the claimant is totally, partially, or temporarily unemployed.
Whether the claimant is able to and available for work.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a full-time molder for West Liberty Foods on July 16, 2018. The claimant was furloughed from April 6 through May 11, 2020. On May 13, 2020, the claimant reported she was not feeling well and was tested for COVID-19. She received her negative test results May 18, 2020, but told the employer she was still not feeling well so she was off work until May 22, 2020, when she was diagnosed with pneumonia. The employer paid the claimant 100 percent of her wages in short-term disability for the week ending May 16, 2020. It paid her 50 percent of her wages in short-term disability for the week ending May 23, 2020. The claimant was scheduled to return to work May 26, 2020, but informed the employer that over the Memorial Day weekend she was in contact with an individual who test positive for COVID-19 and the employer instructed the claimant to self-quarantine until June 1, 2020. On June 2, 2020, the claimant spoke to the human resources director and stated she did know the test results of the person she was with over Memorial Day but just knew he was tested. The claimant returned to work June 3, 2020, and on June 5, 2020, notified the employer she was contacted by the Iowa Department of Public Health and told she was in contact with an individual around May 30, 2020, who tested positive for COVID-19 so the employer required her to self-quarantine for seven days and paid her 50 percent of her wages under short-term disability. On June 7, 2020, the claimant returned to work.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

In order to receive regular unemployment insurance benefits under Chapter 96 of the Iowa Code, a totally unemployed claimant must establish she is able to and available for work. Iowa Code § 96.4(3).

In this case, the claimant is totally unemployed. So the issue is whether the claimant is able to and available for work.

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.

Here, the employer had work available for the claimant after the furlough ended effective May 12, 2020. However, the claimant informed the employer she was unable to work due to exposure to COVID-19 and her own illness. The employer agreed to allow the claimant time off for that reason. The claimant has not established she was able to and available for work until June 7, 2020, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20.

The claimant is considered to be on a leave of absence due to her exposure to COVID-19 and her own illness and is not able and available for work from May 13 through June 6, 2020. Therefore, the claimant is not eligible for regular, state-funded unemployment insurance benefits.

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

DECISION:

The July 14, 2020, (reference 01) unemployment insurance decision is affirmed. The claimant was not able to work and available for work effective May 10, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time as the claimant is able to and available for work, returns to work, and the employer has no comparable or suitable work available.



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

September 2, 2020
Decision Dated and Mailed

je/mh

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. 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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently 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 under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.