

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AMANDA H KERSH
Claimant

PARCO LTD
Employer

APPEAL 20A-UI-06418-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

On June 19, 2020, the claimant filed an appeal from the June 12, 2020 (reference 03) unemployment insurance decision that denied benefits to the claimant effective April 12, 2020 based on a voluntary leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on July 16, 2020. Claimant participated personally and was represented by attorney Teri Jo Schmitz. The employer, Parco Ltd, participated through witness Juliet Diaz. Claimant's Exhibits A through I were admitted. Employer's Exhibits 1 and 2 were admitted. This hearing was consolidated with Appeal 20A-UI-06149-DB-T. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUES:

Is the claimant able to and available for work effective April 12, 2020?
Is the claimant on an approved leave of absence effective April 12, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has worked for employer since March 13, 2019 as a part-time crew member at the employer's fast-food restaurant. The claimant typically worked more than 32 hours per week even though she was classified as a part-time worker. She is still employed by the employer to date.

Claimant filed her original claim for unemployment insurance benefits effective March 22, 2020. Claimant's weekly-benefit amount is \$173.00. Claimant has underlying medical conditions that increase her risk for serious complications from the Coronavirus should she contract it. Claimant requested and was granted a voluntary leave of absence from April 13, 2020 through June 3, 2020.

REASONING AND CONCLUSIONS OF LAW:

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", subparagraph (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:

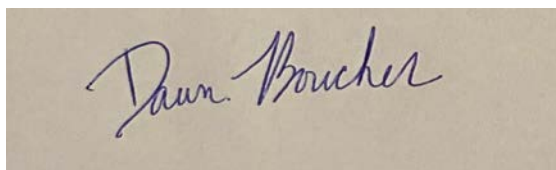
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(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.

In this case, the claimant requested a leave of absence from April 13, 2020 through June 3, 2020 and it was granted by the employer. As such, this period of time that she was not working while on her leave of absence is deemed to be a period of voluntary unemployment. Iowa Admin. Code r. 871-24.23(10). Claimant has not established that she is able to and available for work pursuant to Iowa Code § 96.4(3). Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits during that time period.

DECISION:

The June 12, 2020 (reference 03) unemployment insurance decision is modified in favor of the appellant. The claimant was on a voluntary leave of absence from April 13, 2020 through June 3, 2020. Unemployment insurance benefits funded by the State of Iowa are denied during that time period.

A rectangular area containing a handwritten signature in blue ink that reads "Dawn Boucher".

Dawn Boucher
Administrative Law Judge

July 23, 2020
Decision Dated and Mailed

db/scn

Note to Claimant

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law. 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 funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance (“PUA”) section of the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”) that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**
For additional information on how to apply for PUA go to:
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to “Submit Proof Here.” You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.