

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GREGORY B KAUFMAN
Claimant

KWIK TRIP INC
Employer

APPEAL 20R-UI-09651-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Availability Disqualifications
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
PL 116-136, Sec. 2104(b) – Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

The claimant filed an appeal from the May 29, 2020, (reference 01) unemployment insurance decision that denied benefits based on claimant's availability for work. The parties were properly notified about the hearing. A telephone hearing was held on September 30, 2020. Claimant participated. Employer participated through district leader Alicia Endelman. Employer's Exhibit 1 was admitted into the record.

ISSUES:

Is the claimant able to and available for work?
Is the claimant on a voluntary leave of absence?
Was the claimant overpaid unemployment insurance benefits?
Is the claimant eligible for Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on September 12, 2018. Claimant works for employer as a full-time assistant store leader.

In March 2020, the United States declared a public health emergency due to the COVID 19 pandemic. Claimant has an underlying health condition that puts him at risk for complications if he contracts COVID 19. At his medical provider's advice, claimant took an unpaid leave of absence from March 31, 2020, through June 18, 2020.

Claimant received regular, state funded unemployment insurance benefits in the amount of \$3,570.00 and Federal Pandemic Unemployment Compensation (FPUC) benefits in the amount of \$4,800.00 for the eight weeks ending May 23, 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", 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.

In this case, claimant was on a leave of absence and was limiting his availability for work due to his underlying health condition and the COVID 19 pandemic. In order to be eligible for regular unemployment insurance benefits, claimant must be able to and available for work. In this case, he was not and therefore REGULAR unemployment insurance benefits are denied.

The administrative law judge will not address the issue of whether claimant was overpaid benefits at this time, because there is a possibility he is eligible for Pandemic Unemployment Assistance benefits, and in that case, will have not been overpaid benefits. Claimant MUST apply for those benefits in order to be eligible. The instructions are below.

DECISION:

The May 29, 2020, (reference 01) unemployment insurance decision is affirmed. Claimant is not eligible for REGULAR unemployment insurance benefits effective March 29, 2020, as he is not able to and available for work. Claimant may be eligible for PUA benefits and should follow the instructions in the paragraph below to apply for those benefits.



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

October 1, 2020
Decision Dated and Mailed

cal/sam

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 due to disqualifying separations, 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>. If you do not apply for and are not approved for PUA benefits, you may have an overpayment that you will be required to repay.