

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HEATHER L BROWN
Claimant

WALMART INC
Employer

APPEAL 20A-UI-06448-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/26/20
Claimant: Appellant (3)

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 17, 2020 (reference 01) unemployment insurance decision that denied benefits to the claimant based on a leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on July 22, 2020. Claimant participated personally. The employer, Walmart Inc., did not participate. 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?
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 has worked for the employer since January 4, 2017. She works full-time as a material handler. Claimant's child has been out of school due to the COVID 19 pandemic since March 15, 2020. Claimant was on a leave of absence from work while her child is out of school due to the COVID 19 pandemic from March 15, 2020 through May 19, 2020. Claimant does not have child care for her child from March 15, 2020 through present date due to the COVID 19 pandemic.

Claimant was called back to work in May of 2020 and she worked May 19, 21, and 22, 2020. However, her family member passed away and she was on bereavement leave. She was paid bereavement leave pay for May 26 and May 27, 2020. She also received bonus pay during a week in May, 2020. She is again on a leave of absence following her bereavement leave due to having no childcare because of the COVID 19 pandemic.

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.

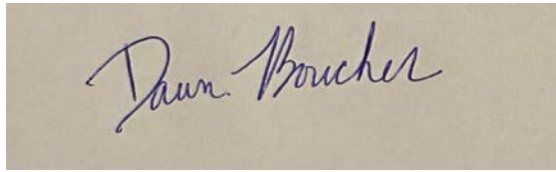
The claimant was on a leave of absence effective March 15, 2020 due to lack of childcare because of the COVID 19 pandemic. She was recalled back to work and worked three days before being on bereavement leave and then was placed on another leave of absence due to lack of childcare because of the COVID 19 pandemic.

As such, the period of time she is not working is deemed to be a period of voluntary unemployment. Claimant has not established that she was 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 while she was on a leave of absence and not able to and available for work. Regular unemployment insurance benefits funded by the State of Iowa are denied effective March 15, 2020.

DECISION:

The June 17, 2020 (reference 01) unemployment insurance decision is modified in favor of the respondent. The claimant is on a voluntary leave of absence and is not able to work and available for work effective March 15, 2020. Unemployment insurance benefits funded by the State of Iowa are denied effective March 15, 2020 and continuing until such time as the claimant is able to and available for work.

This decision denies benefits. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.



Dawn Boucher
Administrative Law Judge

July 29, 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.