

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TYANN NELSON
Claimant

%VERIDIAN CCO
Employer

APPEAL 20A-UI-13012-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (2)

Iowa Code section 96.4(3) – Eligibility – Able to and Available for Work

STATEMENT OF THE CASE:

On October 20, 2020, Tyann Nelson (claimant/appellant) filed an appeal from the October 13, 2020 (reference 03) unemployment insurance decision that denied benefits as of April 5, 2020 based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was held on December 21, 2020. The parties were properly notified of the hearing. The claimant participated personally. Employer/respondent participated by Carol Wilkinson.

Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant provides care for Ms. Wilkinson's three children for approximately 30 hours per week. Claimant therefore has three separate employers: each of the three children. Claimant began this work in the spring of 2016. Claimant is still employed by all three employers as a caregiver. There was no work available for claimant from any of the employers from April 1, 2020 and continuing until July 3, 2020. Work was unavailable because Ms. Wilkinson and her children were largely self-isolating during that time due to the pandemic. Claimant was able to and available for work during this time and did not request a leave of absence.

Claimant filed a claim for benefits each week from the benefit week ending April 11, 2020 and continuing through the benefit week ending June 27, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the October 13, 2020 (reference 03) unemployment insurance decision that denied benefits as of April 5, 2020 based on a finding claimant requested and was

granted a leave of absence is REVERSED. The administrative law judge finds claimant was able to and available for work and therefore eligible for benefits during each week she filed a claim for benefits.

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".

There was no work available for claimant from any of the employers from April 1, 2020 and continuing until July 3, 2020. Work was unavailable because Ms. Wilkinson and her children were largely self-isolating during that time due to the pandemic. Claimant was able to and available for work during this time and did not request a leave of absence. Claimant is therefore eligible for benefits during this period.

DECISION:

The October 13, 2020 (reference 03) unemployment insurance decision that denied benefits as of April 5, 2020 based on a finding claimant requested and was granted a leave of absence is REVERSED. The administrative law judge finds claimant was able to and available for work and therefore eligible for benefits during each week she filed a claim for benefits.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
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January 5, 2021
Decision Dated and Mailed

abd/mh