

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NANCY SMITH
Claimant

ROTARY ANN HOMES INC
Employer

APPEAL 21A-UI-07747-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/28/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant/appellant, Nancy Smith, filed an appeal from the March 9, 2021 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits and stated she was ineligible for benefits effective December 13, 2020, due to a requested leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on May 26, 2021. The claimant participated personally. Becky Phipps testified on behalf of the claimant. The employer participated through Jessica Alvarez, human resources and activities director. Tara Behrendsen, attended as an observer. The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Was the claimant able to and available for work effective December 13, 2020?
Was the claimant voluntarily unemployed due to a leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began employment August 3, 2020 as a full activities assistant. On October 28, 2020, the employer experienced its first COVID-19 case. Claimant remained working with residents on a one-on-one basis, and they were otherwise isolated.

On November 30, 2020, claimant and employer met. Claimant expressed concern with continuing work after learning she had been exposed to COVID-19 residents. Employer agreed to allow claimant to take a leave of absence. Claimant did not perform work from November 30, 2020 through December 30, 2020. During this period, she contracted COVID-19 and was hospitalized for part of the time. Her doctor released her to return to work for half-days, effective December 31, 2020. Employer had work available to claimant.

At the time of hearing, claimant did not have an application for Pandemic Unemployment Assistance (PUA) benefits on file in conjunction with her unemployment from November 30, 2020 through December 30, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not eligible for regular, state-funded unemployment insurance benefits effective December 13, 2020.

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 96.1A, 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(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

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.

For an individual to be eligible to receive benefits, she must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

The administrative law judge recognizes the claimant has filed her claim due to hardship related to the COVID-19 pandemic. Here, the employer had work available for the claimant. However, the claimant informed the employer she was unable to work due to being high risk if exposed to COVID-19. Claimant then contracted COVID-19, requiring hospitalization. Claimant's unemployment for November 30, 2020 through December 30, 2020 was due to her illness, and being on a leave of absence. She was not able and available for work during this period. Therefore, the claimant is not eligible for regular, state-funded unemployment insurance benefits.

Individuals who do not qualify for regular unemployment insurance benefits, but who are 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>.

DECISION:

The unemployment insurance decision dated March 9, 2021, (reference 02) is affirmed. The claimant is not able and available for work effective December 13, 2020. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time the claimant is able to and available for work.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

June 07, 2021
Decision Dated and Mailed

jlb/ol

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 unemployed or continue to be 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 this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>