

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**TONI EGGERS**  
Claimant

**SUNSET FLOORS LTD**  
Employer

**APPEAL 21A-UI-15052-SN-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 04/04/21**  
**Claimant: Appellant (1)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 21, 2021, (reference 01) unemployment insurance decision that denied benefits based upon the conclusion he was not able to and available for work for the April 4, 2021. After due notice was issued, a telephone conference hearing was scheduled to be held on August 25, 2021. The claimant participated. The employer participated through Vice President Kurt Wendl. Official notice was taken of the administrative file.

**ISSUE:**

Was the claimant able to work, available for work, and actively and earnestly seeking work the week ending April 4, 2021?

**FINDINGS OF FACT:**

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

The claimant, Toni Eggers, works for the employer, Sunset Foods LTD, as a full time production line worker. Her schedule is from 6:00 a.m. to 4:00 p.m. Monday through Thursday. The claimant's rate of pay was \$15 per hour.

The employer has a Covid19 infection spread mitigation practice that requires an employee who becomes ill to be tested for Covid19. If the employee is positive for Covid19, they are to remain away from the employer's premises for 14 days.

On April 5, 2021, the claimant tested positive for Covid19. The claimant informed Mr. Wendl of her positive diagnosis. The claimant's symptoms were mild during this period of time.

On April 20, 2021, the claimant attempted to return to work at the end of her quarantine. The claimant was sent home because she was not able to work due to the symptoms of her illness. She was later admitted to the hospital.

On April 26, 2021, the claimant was discharged from the hospital, but she could not return to work because she still needed to use oxygen. The oxygen tank was too cumbersome and too sensitive to the temperatures at the claimant's work station to permit her to return to work.

From May 3, 2021 to May 7, 2021, the claimant returned to work on a reduced basis from 6:00 a.m. to 9:00 a.m. because she was still recovering from the impact of Covid19.

From May 10, 2021 to May 14, 2021, the claimant continued to work on a reduced basis from 6:00 a.m. to 11:00 a.m. because she was still recovering from the impact of Covid19.

From May 17, 2021 to May 21, 2021, the claimant continued to work on a reduced basis from 6:00 a.m. to 2:00 p.m. because she was still recovering from the impact of Covid19.

On May 24, 2021, the claimant returned to work her regular schedule. The claimant testified she used paid time off while she was away, but neither her nor Mr. Wendl was able to provide specific information in terms of how much was used and on which days.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work effective April 4, 2021.

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. 871-24.22(1)a provides:

**Benefits eligibility conditions.** For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

**(1) Able to work.** An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. *Illness, injury or pregnancy.* Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie

'evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.22(2) provides:

**Benefit eligibility conditions.** For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

**(2) Available for work.** The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23 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.

**(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.

**(35)** Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

An individual claiming benefits has the burden of proof that she is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

The claimant was not able to work effective April 4, 2021 because she was ill with Covid19. While the claimant's symptoms were not noticeable initially, her positive status rendered her ill such that she would have transmitted the virus in the workplace to other staff. In this context, the administrative law judge finds the claimant as too ill to work for the entire period she was away or worked on a reduced schedule and is not eligible for benefits according to Iowa Admin. Code r. 871-24.23(1). Accordingly, she is not eligible for unemployment insurance benefits.

**DECISION:**

The June 21, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant was not able to work and available for work effective April 4, 2021. This is because she was either away from work or working a reduced schedule due to being ill. Benefits are denied.



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Sean M. Nelson  
Administrative Law Judge  
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Fax (515) 725-9067

September 09, 2021  
Decision Dated and Mailed

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