

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

Kourtnei N. Kieler
Claimant

Southwest Opportunities
Employer

APPEAL 20A-UI-07985-BH-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code section 96.5(1) – Voluntary Quit
Iowa Code section 96.4(3) – Available for Work
Iowa Administrative Code rule 871-24.22(2)(j) – Leave of Absence Agreed to by Employee and Employer
Iowa Administrative Code rule 871-24.23(10) – Availability for Work While on Voluntary Leave of Absence

STATEMENT OF THE CASE:

The claimant, Kourtnei N. Kieler, appealed the June 25, 2020 (reference 01) unemployment insurance decision that denied benefits based on the finding she voluntarily left employment with Southwest Opportunities due to pregnancy. The agency properly notified the parties of the appeal and hearing. The undersigned presided over a telephone hearing on August 19, 2020. Kieler participated personally. Southwest Opportunities participated through executive director Derek Kruempel.

ISSUES:

Was Kieler separated from employment with Southwest Opportunities?

Was Kieler able to, available for, and earnestly and actively seeking work?

Was Kieler on a leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the undersigned finds the following facts.

Southwest Opportunities hired Kieler on March 3, 2019. She worked part time as a job coach, in the senior room, and in the thrift store. Kieler did not leave employment with Southwest Opportunities.

Kieler was pregnant. Southwest Opportunities and Kieler agreed she would take a voluntary leave of absence beginning on March 18, 2020. On April 13, 2020, Kieler's doctor released her to return to work on light duty, effective April 10, 2020.

Kieler is the primary caregiver for her newborn infant. She was unable to return to work, from home or on location at Southwest Opportunities, because she could not get child care for her newborn infant. Kieler was unable to make arrangements for child care because of COVID-19. However, beginning on July 16, 2020, Kieler's relatives were able to care for her baby.

From July 16, 2020, to the time of hearing, Kieler was working part time for Southwest Opportunities. She picks up shifts when she can, as dictated by her family's ability to care for her baby.

Kieler testified she does not believe she has filed an application for Pandemic Unemployment Assistance (PUA) under the federal CARES Act.

REASONING AND CONCLUSIONS OF LAW:

Regular Unemployment Insurance Benefits Under State Law

For the reasons that follow, the undersigned concludes Kieler is disqualified from regular unemployment benefits under state law because she was not available for work during a period of voluntary unemployment while on a leave of absence agreed to by her and Southwest Opportunities.

Iowa Code section 96.5(1) disqualifies a claimant from benefits if the claimant quit she job without good cause attributable to the employer. Kieler did not leave employment with Southwest Opportunities. She is still employed there. At the time of hearing, Kieler was working for Southwest Opportunities. Therefore, Iowa Code section 96.5(1) does not apply to Kieler's claim for benefits.

Under Iowa Code section 96.4(3), a claimant must be able to, available for, and earnestly and actively seeking work in order to be eligible for benefits. Iowa Workforce Development (IWD) has issued rules governing whether a claimant on a leave of absence is available for work under section 96.4(3). Iowa Administrative Code rule 871-24.22(2)(j) states:

A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

Further, rule 871-24.23(10) provides that a claimant is disqualified from benefits for being unavailable for work if "the claimant requested and was granted a leave of absence" because "such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period."

Here, the evidence shows that Kieler went on a voluntary leave of absence due to pregnancy and childbirth from March 18, 2020, to April 10, 2020. When Kieler was unable to obtain child care for her newborn infant because of COVID-19, Southwest Opportunities extended her leave of absence through July 15, 2020. Beginning on July 16, 2020, Kieler was able to make arrangements for child care, and she has picked up shifts when she can for Southwest Opportunities.

For these reasons, Kieler was not available for work under Iowa law from March 18, 2020, to April 10, 2020, for pregnancy and childbirth. Southwest Opportunities extended her leave of absence from April 11, 2020, through July 15, 2020, because Kieler was unable to find child care due to COVID-19. Kieler's leave of absence is a voluntary period of unemployment under the law. Kieler is therefore disqualified from regular unemployment insurance benefits because she was not available for work as a matter of law.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Kieler testified that she had not applied for Pandemic Unemployment Assistance (PUA) under the CARES Act as of the time of hearing. According to the U.S. Department of Labor, PUA provides for up to 39 weeks of benefits to qualifying individuals who are unable or unavailable to work due to one or more COVID-19 related reasons such as:

A child or other person in the household for which the individual has primary caregiving responsibility is unable to attend school or another facility that is closed as a direct result of the COVID-19 public health emergency and such school or facility care is required for the individual to work [. . .]

U.S. Dep't of Labor, Unemployment Ins. Program Letter 16-20, "Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Unemployment Assistance (PUA) Program Operating, Financial, and Reporting Instructions," p. 3 (Apr. 5, 2020), available online at: https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_acc.pdf (last viewed Aug. 19, 2020) (other parts of the UIPL amended by subsequent Changes).

This decision does not address whether Kieler might be eligible for PUA under the CARES Act.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The June 25, 2020 (reference 01) unemployment insurance decision is affirmed in part and modified in part. Kieler and Southwest Opportunities agreed to Kieler going on a leave of absence. The leave constitutes a voluntary period of unemployment under Iowa. Kieler is therefore disqualified from regular unemployment insurance benefits under state law. Benefits are withheld until such time as Kieler has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though Kieler is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if she is eligible for such compensation for the week claimed.

This decision does not address whether Kieler is eligible for PUA. For a decision on such eligibility, Kieler must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.



Ben Humphrey
Administrative Law Judge

August 25, 2020
Decision Dated and Mailed

bh/mh

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits 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 under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.**
- For more information about PUA, go to:

<https://www.iowaworkforcedevelopment.gov/pua-information>

- To apply for PUA, go to:

<https://www.iowaworkforcedevelopment.gov/pua-application>