

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SARAH M ORARA**  
Claimant

**APPEAL 24A-UI-07869-DS-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WELLS FARGO BANK NA**  
Employer

**OC: 07/21/24  
Claimant: Appellant (5)**

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Iowa Code § 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

On September 4, 2024, the claimant filed an appeal from the unemployment insurance decision dated August 28, 2024, (Reference 01) that denied benefits as of July 21, 2024. A telephone hearing was held at 8:00 a.m. on Friday, September 20, 2024. The claimant participated personally and was represented by Attorney Bryant Engbers. The employer participated through Erin Boldt, Business Execution Senior Manager and Tom Durso, Equifax Hearing Representative. No exhibits were admitted to the record. The administrative law judge took official notice of the administrative record.

**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:

The claimant has worked as a Quality Assurance Administrator for this employer since July 30, 2018, and is still employed by this employer. The claimant took a leave of absence from October 1, 2023, until December 5, 2023, for personal reasons. The claimant had experienced issues with a manager previous to this leave, but that manager had not worked with the claimant since April of 2023. The claimant returned to work in December of 2023, working from home rather than at the physical workplace. The employer was allowing the claimant to work from home as an accommodation at her request. The claimant was assigned to report to Erin Boldt as of November of 2023. The claimant was dissatisfied with the employer's choice for her new supervisor, but continued to work until July of 2024.

In May of 2024, the claimant made additional requests for accommodation, specifically that she be allowed to work a flexible schedule rather than assigned hours, that she be allowed to refrain from tracking her work time, and that the employer refrain from verbally communicating with her. The employer declined all three of these new requests, as tracking work time and communicating verbally constitute essential functions of the job. The claimant indicated that she could not continue working if these additional requests were not granted. As the claimant was

indicating that she was not able to work and available for work, the employer placed the claimant on leave on July 12, 2024, until such time as she can perform the essential functions of her job and return to work. The claimant is currently scheduled to return to work on September 23, 2024.

The claimant is not able to work and available to work in the context of her position with this employer.

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

For the reasons that follow, the administrative law judge concludes the claimant is not able to work or available for work within the meaning of the law. Benefits are denied as of July 21, 2024.

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 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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(2) 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.

(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.

...

j. Leave of absence. 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.

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or

her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The claimant is not on a voluntary leave of absence, as the employer initiated the claimant's current and ongoing absence from work. However, the claimant is not able to work or available for work unless the employer grants her additional accommodation requests. The employer is unable to grant those additional requests. The claimant is unable to perform the essential functions of her job. The claimant is not able to work and available for work within the meaning of the law. Benefits are denied.

**DECISION:**

The August 28, 2024, (Reference 01) unemployment insurance decision denying benefits is MODIFIED with no change in effect. The claimant is not on a leave of absence, but is not able and available for work within the meaning of the law. The claimant is ineligible for benefits as of July 21, 2024.



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David J. Steen  
Administrative Law Judge

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September 23, 2024  
Decision Dated and Mailed

**APPEAL RIGHTS.** If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. *There is no filing fee to file an appeal with the Employment Appeal Board.*

**AN APPEAL TO THE BOARD SHALL STATE CLEARLY:**

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may file a petition for judicial review in district court.

2. If you do not file an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *There may be a filing fee to file the petition in District Court.*

**Note to Parties:** YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

**Note to Claimant:** It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

**SERVICE INFORMATION:**

A true and correct copy of this decision was mailed to each of the parties listed.

**DERECHOS DE APELACIÓN.** Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://eab.iowa.gov)**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en [www.iowacourts.gov/efile](http://www.iowacourts.gov/efile). *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

**Nota para las partes:** USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

**Nota para el reclamante:** es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

**SERVICIO DE INFORMACIÓN:**

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.