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**APPEAL TRIBUNAL DECISION**

**Docket Number:** 20 1466 **Hearing Date:** October 14, 2020

**CLAIMANT:**

TAYLOR D VIDIC

**CLAIMANT APPEARANCES: DETS APPEARANCES:**

Taylor Vidic None

 **CASE HISTORY**

The claimant appealed a determination dated July 30, 2020 which denied benefits based upon AS 23.20.378. The issue before the Appeal Tribunal is whether the claimant was able to work and available for suitable work during a period of travel.

 **FINDINGS OF FACT**

The claimant established a claim for unemployment insurance benefits on March 15, 2020.

On July 8, 2020, the claimant traveled from her home in Juneau Alaska to Skagway Alaska. She had worked in Skagway the past five years and had expected to work there again. She had personal belongings stored there. Her work was in the tourism industry and with the COVID-19 pandemic that industry was shut down. When it became apparent she would not be returning to Skagway to work she made the trip to retrieve her belongings during the week now in question. She returned to Juneau on July 10, 2020. Her trip to Skagway was not COVID-19 related

 **PROVISIONS OF LAW**

**AS 23.20.378 provides:**

 (a) An insured worker is entitled to receive waiting-week credit or benefits for a week of unemployment if for that week the insured worker is able to work and available for suitable work….

**8 AAC 85.350:**

 (a) A claimant is considered able to work if the claimant is physically and mentally capable of performing work under the usual conditions of employment in the claimant's principal occupation or other occupations for which the claimant is reasonably fitted by training and experience.

 (b) A claimant is considered available for suitable work for a week if the claimant

 (1) registers for work as required under 8 AAC 85.351;

 (2) makes independent efforts to find work as directed under 8 AAC 85.352 and 8 AAC 85.355;

 (3) meets the requirements of 8 AAC 85.353 during periods of travel;

 (4) meets the requirements of 8 AAC 85.356 while in training;

 (5) is willing to accept and perform suitable work which the claimant does not have good cause to refuse;

 (6) is available, for at least five working days in the week, to respond promptly to an offer of suitable work; and

 (7) is available for a substantial amount of full‑time employment.

**HB 308 UNEMPLOYMENT INSURANCE: BENEFIT QUALIFICATION AND WAITING WEEK DURING NOVEL CORONAVIRUS DISEASE OUTBREAK.**

 (a) To the extent consistent with federal law, an insured worker who is otherwise qualified to receive a benefit under [AS 23.20](http://www.akleg.gov/basis/statutes.asp#23.20) (Alaska Employment Security Act) may not be disqualified for failure to comply with [AS 23.20.378](http://www.akleg.gov/basis/statutes.asp#23.20.378)(a) because of conduct by the insured worker or the employer of the insured worker related to an outbreak of novel coronavirus disease (COVID-19), including conduct involving:

 (1) providing care, including medical care, to one or more persons

 (2) preventing or limiting the spread of COVID-19; or

 (3) preventing or limiting economic loss or harm.

 (b) The protection of an insured worker under (a) of this section applies for a period of 120 days beginning on the effective date of this section or the date the insured worker applies for a benefit under [AS 23.20](http://www.akleg.gov/basis/statutes.asp#23.20), whichever is later.

**8 AAC 85.353 provides:**

(a) The requirements of this section apply to any period during which a claimant travels outside the customary commutable area in which the claimant resides, unless the claimant travels while exempted from availability requirements under AS 23.20.378(a) or in connection with training approved under AS 23.20.382. For purposes of this section, a customary commutable area means an area where a claimant customarily commutes to and from work each day.

(b) A claimant is available for work each week while traveling only if the claimant is traveling to

(1) search for work and is legally eligible to accept work in the area of travel;

(2) accept an offer of work that begins no later than 14 days after the claimant's departure; or

(3) establish or return to a residence immediately following the claimant's discharge from the armed forces.

(c) A claimant who travels in search of work must be legally eligible to accept work and make reasonable efforts to find work each week in the area of the claimant's travel, by

(1) contacting in person an employment office;

(2) making at least two in-person employer contacts;

(3) registering in person with the local chapter of the claimant's union that has jurisdiction over the area of the claimant's travel; a claimant who has previously registered with the local union that has jurisdiction over the area of the travel is available for work if the claimant makes contacts as required by the union to be eligible for dispatch in the area of the travel; or

(4) attending in person a pre-arranged job interview.

(d) A claimant is not available for work after the claimant travels for more than four consecutive calendar weeks to search for work. A claimant is not available for work after the claimant travels for more than seven days if traveling to

(1) accept an offer or work that begins 14 days after the claimant’s departure; or

(2) establish or return to a residence immediately following the claimant’s discharge from the armed forces.

# CONCLUSION

8 AAC 85.353(b) provides that a claimant who travels away from their area of residence during their customary workweek is considered available for work only if they travel for one of the three allowable reasons stated in section (c).

The claimant’s main reason for travel was an understandable but personal one: to get her belongings. Thus, it was not for a reason described (c) above.

Also, her travel schedule was such that she was unavailable in her local labor market (Juneau) less than the required five days per her regular work week involved.

A disqualification must remain imposed.

**DECISION**

The determinations issued on July 30, 2020 are **AFFIRMED**. Benefits remain denied for week ending July 11, 2020.

 **APPEAL RIGHTS**

This decision is final unless an appeal is filed in writing to the Commissioner of Labor and Workforce Development **within 30 days** after the decision is mailed to each party. The appeal period may be extended only if the appeal is delayed for circumstances beyond the party’s control. A statement of rights and procedures is enclosed.

Dated and mailed on October 15, 2020

 Michael Swanson,

 Appeals Officer