

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GEBREKIDAN BRHANE

Claimant

APPEAL 20A-UI-06227-BH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS, INC.

Employer

OC: 05/17/20

Claimant: Appellant (1)

Iowa Code section 96.5(1) – Voluntary Quit

Iowa Administrative Code rule 871-24.25 – Voluntary Quit Without Good Cause Attributable to the Employer

Iowa Administrative Code rule 871-24.26 – Voluntary Quit With Good Cause Attributable to the Employer

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, Gebrekidan Brhane, appealed the June 9, 2020 (reference 01) unemployment insurance decision that denied benefits based upon a finding Brhane voluntary quit his job with Tyson Fresh Meats, Inc. (Tyson) without good cause attributable to the employer. The agency properly notified the parties of the appeal and hearing.

The undersigned presided over a telephone hearing on July 20, 2020. Brhane participated personally and testified. Tyson did not participate. Claimant's Exhibit A was admitted into evidence.

ISSUES:

Was Brhane's separation from employment with Tyson a layoff, discharge for misconduct, or voluntary quit without good cause attributable to the employer?

Is Brhane able to and available for work?

FINDINGS OF FACT:

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

Tyson hired Brhane on November 25, 2019. He worked full time picking bones. Brhane's daughter has health issues that make her at high risk of serious illness or death from COVID-19.

Because of this, Brhane requested a leave of absence, which Tyson granted. Brhane was still on the leave of absence at the time of hearing. Brhane testified credibly that his employment with Tyson had not ended.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the undersigned concludes Brhane is not available for work because he was on a leave of absence.

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 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 Brhane went on a voluntary leave of absence. He requested to go on leave because of his daughter’s health. Tyson agreed to allow him to take a leave of absence. Brhane was on a leave of absence at the time of hearing.

For these reasons, Brhane was not available for work under Iowa law because he and Tyson agreed that he would go on a leave of absence. Brhane’s leave of absence is a voluntary period of unemployment under the law. Brhane is therefore disqualified from regular unemployment insurance benefits because he was not available for work as a matter of law.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The June 9, 2020 (reference 01) unemployment insurance decision is affirmed in part and modified in part. Brhane is not available for work because he is on a leave of absence approved by Tyson. Benefits are withheld until such time as Brhane has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though Brhane is not eligible for regular unemployment insurance benefits under state law, he 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 Brhane is eligible for such compensation for the week claimed.

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

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>



Ben Humphrey
Administrative Law Judge

August 31, 2020
Decision Dated and Mailed

bh/scn