

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

---

**ZACHARY M GIDA**  
Claimant

**APPEAL NO. 20A-UI-08332-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CONTITECH USA INC**  
Employer

**OC: 04/26/20**  
**Claimant: Appellant (2)**

---

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.19(38) – Temporary Layoff

**STATEMENT OF THE CASE:**

Zachary Gida filed a timely appeal from the July 8, 2020, reference 01, decision that denied benefits effective April 26, 2020, based on the deputy's conclusion that Mr. Gida was on a leave of absence that he requested and the employer approved, that he was voluntarily unemployed, and that he was unavailable for work. After due notice was issued, a hearing was held on September 16, 2020. Mr. Gida participated. The employer did not provide a telephone number for the hearing and did not participate. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: KCCO, DBRO, KPYX and WAGE-A.

**ISSUES:**

Whether Mr. Gida was able to work and available for work during the period of April 26, 2020 through May 23, 2020.

Whether Mr. Gida was on a leave of absence that he requested and the employer approved during the period of April 26, 2020 through May 23, 2020.

Whether Mr. Gida was temporarily laid off during the period of April 26, 2020 through May 23, 2020.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Zachary Gida established an original claim for benefits that was effective April 26, 2020. Iowa Workforce Development set his weekly benefit amount at \$518.00. There are two base period employers: Contitech USA, Inc. and South Iowa Area Detention. At the time Mr. Gida established his claim for benefits, he was employed by Contitech as a full-time production worker. Mr. Gida's father also worked for the employer. Mr. Gida lives with his father and the pair commuted together to work.

Effective April 20, 2020, the employer temporarily laid off Mr. Gida and his father. Mr. Gida's father had developed an upper respiratory illness that caused the employer to be concerned it might be COVID-19. The employer insisted that Mr. Gida's father go off work until his

symptoms resolved. Because Mr. Gida resided with his father and commuted with his father, the employer also insisted that Mr. Gida go off work. Mr. Gida did not request to go off work. Mr. Gida waited a week to file an application for unemployment insurance benefits. On or about April 26, 2020, Mr. Gida developed a head cold, but still felt well enough to report for work. Mr. Gida's father had to wait for an appointment to see a doctor and be tested for COVID-19. Mr. Gida's father tested negative for COVID-19. Mr. Gida returned to work on May 23, 2020, the soonest date the employer would allow him to return. Mr. Gida had remained available for full-time work the entire time he was off work. Mr. Gida's father returned to work at a later date, due to his respiratory illness.

Mr. Gida made weekly claims for the weeks that ended May 2, 9, 16, and 23, 2020. Mr. Gida then discontinued his claim for benefits. For each claim week, Mr. Gida reported that he was not working, that he was able to work and available for work, that he had not refused any work, and that he had no wages to report.

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

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(2) provides, in relevant part, as follows:

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.

Iowa Admin. Code r. 871-24.23(10) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(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.

Iowa Code section 96.19(38)(c) provides:

"Total and partial unemployment".


c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

The evidence the record establishes the employer temporarily laid off Mr. Gida effective April 20, 2020 out of concern that Mr. Gida's father might have COVID-19 and out of concern that Mr. Gida might have been exposed to COVID-19 and be a carrier. Mr. Gida did not request to go off work and was not on a voluntary leave of absence. Mr. Gida remained physically and mentally able to work, and remained available for full-time work during the period that the employer required him to remain away from the workplace. Mr. Gida is eligible for benefits for the four benefit weeks between April 26, 2020 and May 23, 2020, provided he meets all other eligibility requirements.

In response to the economic impact of the COVID-19 pandemic, Iowa Workforce Development published on its website Unemployment Insurance Guidance for Employers and Workers. As part of that publication, the Agency announced that claims filed as a direct or indirect result of Covid-19 would not be charged to employers. See <https://www.iowaworkforcedevelopment.gov/COVID-19#ife>, Information for Employers. Based on this Agency pronouncement, the employer's account will not be charged for benefits paid to the claimant for the period of April 26, 2020 through May 23, 2020.

**DECISION:**

The July 8, 2020, reference 01, decision is reversed. The claimant was able to work, available for work, but temporarily laid off during the four benefit weeks between April 26, 2020 through May 23, 2020. The claimant is eligible for benefits for that period, provided he meets all other eligibility requirement. The employer's account will not be charged for benefits paid to the claimant for the period of April 26, 2020 through May 23, 2020.



---

James E. Timberland  
Administrative Law Judge

September 17, 2020  
Decision Dated and Mailed

jet/scn