

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

EFRAIN GONZALEZ
Claimant

TYSON FRESH MEATS INC
Employer

APPEAL 22A-UI-02178-ED-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 10/18/20
Claimant: Appellant (01)

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On January 3, 2021, the claimant filed an appeal from the December 31, 2020, (reference 01) unemployment insurance decision that denied benefits based on claimant's voluntary leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on March 7, 2020. Claimant, Efrain Gonzalez, participated. Employer, Tyson Fresh Meats, did not participate. Language Link provided interpretation services. No exhibits were offered or admitted.

ISSUES:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on March 31, 1997. Claimant works for employer as a full-time box maker. Claimant was diagnosed with COVID-19 and was off work for one month. Claimant did not recall what day he was diagnosed. Claimant testified that he was off work for four weeks or a little bit longer. The employer told claimant he needed to stay away from work until he was completely healed. Claimant was able to do that and returned to work after he was symptom free.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

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. 871-24.23(10) provides:

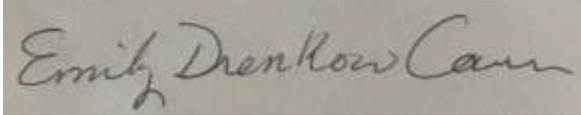
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(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.

Here, claimant was on a leave of absence due to being ill with COVID-19. Claimant has not established he is able to and available for work, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits from the effective date of the claim.

DECISION:

The October 13, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant is not available for work, and regular, state-funded unemployment insurance benefits are denied.

A rectangular box containing a handwritten signature in cursive script that reads "Emily Drenkow Carr".

Emily Drenkow Carr
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

March 22, 2022
Decision Dated and Mailed

ed/mh