

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JODIE L BRESNAHAN
Claimant

APPEAL 21A-UI-23955-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

INFASTECH DECORAH LLC
Employer

**OC: 09/12/21
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence

STATEMENT OF THE CASE:

On October 27, 2021, the claimant/appellant filed an appeal from the October 25, 2021, (reference 01) unemployment insurance decision that denied benefits based on claimant requesting and granted a leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on December 16, 2021. Claimant participated at the hearing. Employer did not call into the hearing to participate. Administrative notice was taken of claimant's unemployment insurance benefits.

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: Claimant began working for employer on March 15, 2006. Claimant works for the employer as a full-time machine operator.

The employer has a policy that requires employees to mandatorily quarantine for 14 days if they test positive for COVID or if an employee is exposed to a person that test positive for COVID.

Claimant's son tested positive for COVID. Claimant notified the employer and beginning on September 13, 2021, claimant was put on a mandatory quarantine until September 27, 2021. Claimant did not test positive for COVID and she did not have any symptoms of COVID. Claimant could have continued working if she was not put on the mandatory quarantine. Claimant returned to work on September 27, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code 871. 24.22(2) provides:

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. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

h. Available for part of week. Each case must be decided on its own merits. Generally, if the individual is available for the major portion of the workweek, the individual is considered to be available for work.

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.

(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.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

(Emphasis added).

In this case claimant did not request a leave of absence; she would have preferred to continue working. However, due to the pandemic and the risk of exposing coworkers to COVID, employer required claimant to remain away from work. Because it was the employer's choice that claimant was removed from work and not claimant's choice, the administrative law judge finds that claimant was not on a voluntary leave of absence. Claimant was otherwise able to and available for work. Benefits are allowed, provided she is otherwise eligible effective September 12, 2021.

DECISION:

The October 25, 2021 (reference 01) unemployment insurance decision is REVERSED. Claimant was able to and available for work effective September 12, 2021. Benefits are allowed, provided claimant is otherwise eligible.



Carly Smith
Administrative Law Judge
Unemployment Insurance Appeals Bureau

January 21, 2022
Decision Dated and Mailed

cs/mh