

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KEVIN M MARTIN
Claimant

APPEAL 21A-UI-08317-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EAGLE WINDOW & DOOR MANUFACTURING
Employer

OC: 02/09/20
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 March 23, 2021, the claimant, Kevin M. Martin, filed an appeal from the March 18, 2021 (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant was unable to work effective January 17, 2021, due to illness. The parties were properly notified of the hearing. A telephonic hearing was held at 2:00 p.m. on Friday, June 4, 2021. The claimant, Kevin M. Martin, participated. The employer, Eagle Window and Door Manufacturing, did not register a participant and did not participate in the hearing. No exhibits were offered during the hearing. The administrative law judge took official notice of the administrative record.

ISSUE:

Is claimant able to work and available for work effective January 17, 2021?
Was claimant on an approved leave of absence effective January 17, 2021?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began his employment with employer Eagle Window and Door Manufacturing in April 2017. Claimant is currently employed with this employer full-time as an assembler.

Claimant reopened his claim for unemployment insurance benefits effective January 17, 2021, due to experiencing mild symptoms of COVID-19. Claimant had a cough and he temporarily lost his senses of taste and smell. The employer would not allow him to return to work for ten days. Claimant returned back to work on January 28, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was able to and available for work. Benefits are allowed, provided claimant is otherwise eligible.

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 mandatory leave of absence between January 17 and January 27, 2021. Claimant did not request a leave of absence during these weeks; he would have preferred to continue working. However, due to the pandemic and the risk of exposing coworkers to COVID-19, the 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 he is otherwise eligible.

DECISION:

The March 18, 2021 (reference 02) unemployment insurance decision is reversed. Claimant was able to and available for work effective January 17, 2021. Benefits are allowed, provided he is otherwise eligible.



Elizabeth A. Johnson
Administrative Law Judge
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June 18, 2021
Decision Dated and Mailed

lj/scn