

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JACALYN E SMITH
Claimant

APPEAL 21A-UI-03366-S2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DEAN FOODS NORTH CENTRAL LLC
Employer

OC: 11/08/20
Claimant: Appellant (2R)

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

STATEMENT OF THE CASE:

On January 20, 2021, Jacalyn E. Smith (claimant) filed an appeal from the January 13, 2021, (reference 01) unemployment insurance decision that denied benefits effective November 8 2020, based upon the determination he was not able to and available for work. After due notice was issued, a telephone hearing was held on March 23, 2021. The claimant participated personally. Dean Foods North Central, LLC (employer) did not respond to the hearing notice and did not participate. No exhibits were offered into the record.

ISSUE:

Was the claimant able to and available for work from November 8, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time by the employer from August 18, 2020, until December 22, 2020, when she was discharged. Claimant was exposed to COVID-19. Employer required claimant to quarantine between November 5, 2020 and November 15, 2020, even though she was not sick and had not tested positive. The claimant did not request a leave of absence, wanted to work during this time, and returned to work following the quarantine. Claimant received no wages during the time she was required to quarantine.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was temporarily unemployed and considered able to and available for work from November 8, 2020. 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". [Emphasis added.]

Iowa Code section 96.19(38)c provides:

Definitions.

38. 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,

Iowa Admin. Code r. 871-24.23 provides, in relevant part:

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

(1) An individual who is ill and presently not able to perform work due to illness.

...

(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.

An individual claiming benefits has the burden to prove that she is able to and available for work. Iowa Admin. Code r. 871-24.22. Claimant's unrefuted testimony is that she was not ill and she did not request a leave of absence. Therefore, claimant was temporarily unemployed for fewer than four weeks because the employer laid her off due to a public emergency. The claimant is considered able to and available for work during this time. Accordingly, benefits are allowed effective November 8, 2020.

DECISION:

The January 13, 2021, (reference 01) unemployment insurance decision is reversed. The claimant is able to and available for work effective November 8, 2020. Benefits are allowed, provided claimant is otherwise eligible.

REMAND:

The issue of whether employer should be relieved of charges for the benefits is remanded to the Tax Bureau of Iowa Workforce Development since claimant was unemployed due to safety measures employer was taking in response to the COVID-19 pandemic.



Stephanie Adkisson
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March 25, 2021
Decision Dated and Mailed

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