

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

ALBERTO FURMAN
Claimant

APPEAL NO: 20A-UI-08101-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALUMINUM CO OF AMERICA
Employer

OC: 04/19/20
Claimant: Appellant (2)

871 IAC 24.23(10) – Leave of Absence
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 1, 2020, reference 01 decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 21, 2020. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing.

ISSUE:

The issue is whether the claimant is able and available for work and whether he is on a leave of absence.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a full-time equipment operator for Aluminum Company of America September 13, 2004. He was furloughed from his job from April 20 through May 17, 2020, due to a lack of work. He did not request a leave of absence and was able and available for work during his furlough.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is able and available for work and did not take a leave of absence.

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.

The claimant did not request a leave of absence. Instead, he was furloughed from April 20 through May 17, 2020, due to a lack of work. He was able and available for work during the furlough. Accordingly, benefits are allowed for the four weeks ending May 16, 2020.

DECISION:

The July 1, 2020, reference 01, decision is reversed. The claimant is able and available for work and did not take a leave of absence. Benefits are allowed for the four weeks ending May 16, 2020, provided the claimant is otherwise eligible.



Julie Elder
Administrative Law Judge

August 25, 2020
Decision Dated and Mailed

je/sam