

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEPHEN W LEWIS**  
Claimant

**APPEAL NO. 13A-UI-01639-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**EATON CORPORATION**  
Employer

**OC: 12/16/12**  
**Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

Stephen Lewis (claimant) appealed a representative's January 18, 2013 decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits as of December 16, 2012, because he did not meet the availability requirement when working for Eaton Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for March 11, 2013. The claimant participated personally. The employer participated by Nicole Crews, Human Resource Supervisor, and Katie Vande Berg, Human Resources Generalist.

**ISSUE:**

The issue is whether the claimant is available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from August 30, 2010, to the present. For the benefit weeks ending December 22, 2012, and February 2, 2013, the employer asked employees if anyone would volunteer to take a furlough. The employer informed employees that they would be able to receive unemployment insurance benefits for the furlough. The claimant volunteered to take both furloughs.

The employer laid off workers and paid them wages from December 24, 2012, through January 2, 2013, and then again from February 26 to March 2, 2013. The claimant worked his regular hours for the weeks ending January 26, February 9, and 23, 2013. For the week ending February 16, 2013, the claimant took two days of vacation. The claimant filed for unemployment insurance benefits with an effective date of December 16, 2012. He filed for benefits for benefit weeks ending December 22, 29, 2012, January 26, February 2, 9, 16, 23, and March 3, 2013.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits.

871 IAC 24.23(29) provides:

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

(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

When an employee makes the choice to not work the major portion of a workweek for the employer, he is considered to be unavailable for work. The claimant signed up to take a voluntary furlough and the employer granted his request. He is considered to be unavailable for work for the benefit weeks ending December 22, 2012, and February 2, 2013. The claimant is disqualified from receiving unemployment insurance benefits for the benefit weeks ending December 22, 2012, and February 2, 2013, due to his unavailability for work.

871 IAC 24.23(23) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant was working for the employer to such an extent as to remove him from the work force. The claimant was either working or on paid vacation for the two-week period ending January 26, 2013, and the four-week period ending March 2, 2013. The claimant is disqualified from receiving unemployment insurance benefits because he was not available for other work.

**DECISION:**

The representative's January 18, 2013 decision (reference 02) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

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