

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

COREY J MCGRAW
Claimant

HY VEE INC
Employer

APPEAL 21A-UI-03585-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/21/20
Claimant: Appellant (2)

Iowa Admin. Code r. 871-24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

On January 22, 2021, Corey McGraw (claimant/appellant) filed an appeal from the January 15, 2021 (reference 01) unemployment insurance decision that denied benefits as of November 8, 2020 based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was held on March 29, 2021. The parties were properly notified of the hearing. The claimant participated personally. Hy-Vee Inc. (employer/respondent) participated by Assistant VP of HR Natalie McGee and was represented by Barbara Buss.

Official notice was taken of the administrative record.

ISSUES:

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's first day of employment was September 27, 2018. Claimant is still employed by employer as a full-time truck driver. Employer required claimant to quarantine due to potential COVID-19 exposure during two 14 day periods: from November 11 through November 24, 2020; and from March 2 through March 16, 2021. Claimant was not ill during these periods and could have worked if work was available. Claimant was not paid by employer and did not use vacation or paid leave during these periods. Claimant filed a claim for benefits during the week ending November 14 and 21, 2020 and March 13, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the January 15, 2021 (reference 01) unemployment insurance decision that denied benefits as of November 8, 2020 based on a finding claimant requested and was granted a leave of absence is REVERSED.

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.

Claimant did not request a leave of absence. Employer required claimant to quarantine due to potential COVID-19 exposure during two 14 day periods: from November 11 through November 24, 2020; and from March 2 through March 16, 2021. Claimant was not ill during these periods and could have worked if work was available. Claimant was not paid by employer and did not use vacation or paid leave during these periods. Claimant is therefore eligible for benefits during the weeks filed, provided he meets all other requirements. Because the Department has determined not to charge employers for pandemic-related periods of unemployment, employer shall not be charged for benefits paid.

DECISION:

The January 15, 2021 (reference 01) unemployment insurance decision that denied benefits as of November 8, 2020 based on a finding claimant requested and was granted a leave of absence is REVERSED. Claimant is eligible for benefits during the weeks filed, provided he meets all other requirements.



Andrew B. Duffelmeyer
Administrative Law Judge

March 30, 2021
Decision Dated and Mailed

abd/ol