

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NATHAN W DIX
Claimant

INFASTECH DECORAH LLC
Employer

APPEAL 21A-UI-00149-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 09/06/20
Claimant: Appellant (2R)

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

STATEMENT OF THE CASE:

On December 2, 2020, the claimant filed an appeal from the November 25, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 3, 2021. Claimant participated. Employer did not register for the hearing and did not participate.

ISSUES:

Is the claimant able to and available for work?
Is the claimant on a voluntary leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant works for employer as a full-time toolmaker. In January 2020, claimant requested to use vacation time in September 2020 and October 2020. Claimant scheduled out of state vacations and put deposits down. Employer approved his request to use paid time off.

In March 2020, the United States declared a public health emergency because of the COVID 19 pandemic. Employer adopted a policy stating that employees who travel out of state and/or to high population events, such as a concert or a funeral, will be required to self-quarantine for 14 days before they are allowed to return to work. The policy was adopted to prevent spread of COVID 19 in the workplace. Claimant was aware of the policy.

Claimant went on vacation to Colorado from September 4, 2020, through September 8, 2020. Claimant returned home on September 8, 2020, and was not ill and was able to return to work. Employer did not allow claimant to return to work until September 24, 2020. Claimant went on vacation to Michigan from October 1, 2020, through October 5, 2020. Claimant returned home on October 5, 2020, and was not ill and was able to work. Employer did not allow claimant to return to work until October 19, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective September 6, 2020.

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 only requested to take a small amount of vacation time. That request was approved and claimant put down vacation deposits prior to the pandemic and employer adopting safety measures in response to the pandemic. Claimant was back in Iowa and healthy, ready and willing to work during the time periods in question. Employer did not allow claimant to work because it was also reasonably concerned about its staff safety. But no government mandate or public health authority required claimant to stay at home for 14 days.

Claimant is able to and available for work during the time periods in question and therefore meets the eligibility requirements for unemployment insurance benefits. The issue of whether employer should be relieved of charges for the benefits, since claimant was unemployed due to COVID safety measures, will be remanded to the Tax Bureau of Iowa Workforce Development.

DECISION:

The November 25, 2020, (reference 01) unemployment insurance decision is reversed. The claimant is available for work effective September 6, 2020, and regular, state-funded unemployment insurance benefits are allowed.

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.



Christine A. Louis
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February 17, 2021
Decision Dated and Mailed

cal/kmj