

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RANDY E CASON
Claimant

DEE ZEE INC
Employer

APPEAL 21A-UI-25655-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/17/21
Claimant: Appellant (1R)**

Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

Randy E Cason, the claimant/appellant, filed an appeal from the November 15, 2021, (reference 01) unemployment insurance decision that denied benefits as October 17, 2021 because Mr. Cason was not able to work due to illness. The parties were properly notified about the hearing. A telephone hearing was held on January 19, 2022. Mr. Cason participated and testified. The employer participated through Sarah Tew, human resources specialist. The administrative law judge took official notice of the administrative record.

ISSUE:

Is Mr. Cason able to and available for work?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Cason began working for the employer on February 22, 2021. He worked as a full-time order processor.

On Wednesday, October 6, 2021, Mr. Cason did not attend work because he did not feel well. He was tested for COVID-19 the next day and told the employer that he had been tested. The employer gave Mr. Cason Family Medical Leave Act (FMLA), and short-term disability paperwork to complete. The next day, Mr. Cason received a positive test result. Per advice from his doctor, Mr. Cason self-quarantined the following week, October 11-15. Mr. Cason gave his manager a doctor's note releasing him to return to work and he returned to work on Monday, October 18. For an unknown reason Mr. Cason's note did not reach the employer's human resources office.

Mr. Cason did not attend work for the rest of that week because he had to deal with some personal matters that were unrelated to his COVID-19 test result and self-quarantine. The employer assumed that Mr. Cason was not attending work due to COVID-19. Mr. Cason returned to work on the following Monday, October 25.

Mr. Cason's employment ended with this employer sometime in November or December 2021. Iowa Workforce Development has not investigated Mr. Cason's eligibility for benefits based on his separation from employment with this employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

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(29) provides:

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

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

To be able to work, "[a]n individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood." *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1). "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides." *Sierra* at 723. A person claiming benefits has the burden of proof that she is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

In this case, Mr. Cason is not available to work from October 17, 2021, the effective date of his claim, through October 23, 2021. Mr. Cason did not work Tuesday, October 19 through Friday, October 22 because he had to deal with personal matters. Since Mr. Cason was not able to work the major portion of the week of October 17-23, he is not eligible for benefits for that week.

DECISION:

The November 15, 2021, (reference 01) unemployment insurance decision is affirmed. Mr. Cason is not available for work the week of October 17-23, 2021. Benefits are denied for this week.

REMAND:

The issue of Mr. Cason's separation from employment with this employer is remanded (sent back) to the Benefits Bureau of Iowa Workforce Development for investigation and a decision.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

February 10, 2022
Decision Dated and Mailed

dz/scn

NOTE TO MR. CASON

- To determine if you are eligible for benefits for the weeks when you were unemployed due to COVID-19, you may request that your claim be backdated.
- You may make this request via:
 - Phone: 1-866-239-0843,
 - Email: UIClaimsHelp@iwd.iowa.gov, or
 - Online request: <https://www.iowaworkforcedevelopment.gov/unemployment-help-request>