

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TABATHA JACKSON
Claimant

APPEAL NO. 22A-UI-06203-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**JOHNSTON COMMUNITY SCHOOL
DISTRICT**
Employer

OC: 02/13/22
Claimant: Appellant (1)

Iowa Admin. Code ch. 871 r. 24.23(10) – Leave of Absence
Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated March 9, 2022 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on April 21, 2022. Claimant participated personally. Employer participated by Kayla Badtrom.

ISSUE:

Whether claimant is able and available for work?
Whether claimant is on an approved leave of absence?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant works for employer as a full time special education associate, and has worked in that position since November of 2019. Claimant stated that a particular student with whom she has been working has a great deal of trauma, and that trauma became worse and affected claimant.

Claimant stated her blood pressure is very elevated, and became more so after working with this student. Claimant went to her doctor, and claimant was given a note asking for claimant to be placed on a leave of absence until further notice. This was presented to employer on February 11, 2022 and claimant's leave took effect on February 14, 2022. The leave is still in effect to the date of the hearing.

REASONING AND CONCLUSIONS OF LAW:

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.

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. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An 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.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Inasmuch as the illness was not work-related and the treating physician has not released the claimant to return to work, the claimant has not established the ability to work. Benefits are withheld until such time as the claimant obtains a full medical release to return to work.

DECISION:

The decision of the representative dated March 9, 2022, reference 01 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective February 13, 2022, provided claimant meets all other eligibility requirements.



Blair A. Bennett
Administrative Law Judge

April 26, 2022
Decision Dated and Mailed

bab/mh