

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ABDELLAH TAYADIRT

Claimant

APPEAL 24A-UI-07817-PT

**ADMINISTRATIVE LAW JUDGE
DECISION**

COLLINS ENGINE NOZZLES INC

Employer

OC: 08/11/24

Claimant: Appellant (4R)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence

STATEMENT OF THE CASE:

The claimant, Abdellah Tayadirt, filed an appeal from the August 30, 2024, (reference 01) unemployment insurance decision that denied benefits as of August 11, 2024, based on a determination that the claimant was on a leave of absence, was voluntarily unemployed, and was not available for work. The parties were properly notified of the hearing. A hearing was held in Des Moines, Iowa, on September 18, 2024. The claimant participated personally. The employer, Collins Engine Nozzles, Inc., did not participate. The claimant's Exhibit A was admitted into evidence. The administrative law judge took official notice of the administrative record.

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: The claimant began working for Collins Engine Nozzles, Inc. in August 2023. He worked as a mechanic in multiple departments. The claimant worked full-time hours, working Monday through Friday from 3:30pm to 12:00am. The claimant's job duties included applying coating to the surface of nozzles and performing pressure and hydraulic tests on the nozzles. The job involved significant standing and walking as well as lifting objects weighing less than 20 pounds.

Throughout the claimant's employment, he suffered from several medical impairments, including high blood pressure and a past spinal injury, which limited his ability to bend and lift objects. The employer accommodated the claimant's limitations by elevating most objects in and around his work station so that the claimant would rarely need to bend over.

Sometime in the Spring of 2024, the claimant suffered an acute blood pressure spike, which resulted in cardiac problems and required the claimant to go to the emergency department. After being discharged from the hospital, the claimant met with the employer to discuss whether

there were options he could pursue to try to avoid exacerbating his medical conditions. The claimant did not qualify for FMLA because he had not been employed for at least one year. The employer recommended that the claimant contact his medical provider to see if they recommend any medical restrictions or workplace accommodations.

On July 5, 2024, the claimant's medical provider restricted the claimant to lifting no more than 25 pounds, only occasionally reaching overhead, kneeling and stooping, never bending or climbing, and the ability to sit whenever necessary. The claimant continued working in his position until July 31, 2024, when the employer called the claimant into a meeting and informed the claimant that it had determined the claimant was unable to perform the essential duties of his position with his current medical restrictions. The employer told the claimant that it could not allow him to return to work as a mechanic with his current restrictions. The employer placed the claimant on an involuntary, unpaid leave of absence while both parties waited to see if any positions that accommodated the claimant's restrictions became available or if his medical restrictions would be lifted. The claimant's employment ended on September 13, 2024. That separation has not yet been adjudicated by Iowa Workforce Development.

The claimant has a postgraduate degree in management control and has prior work experience as a market researcher, tutor, and store manager. Since separating from Collins Engine Nozzles, Inc., the claimant has applied for a variety of different jobs, most of which are sedentary or light duty that the claimant believes he could perform.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work beginning August 11, 2024, through September 14, 2024. However, the claimant is able to and available for work as of September 15, 2024, when he separated from employment with Collins Engine Nozzles, Inc.

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) and (2) provide:

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.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market...

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

Iowa Admin. Code r. 871-24.23(10) and (35) provide:

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.

(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.

Here, claimant did not request or consent to a voluntary leave of absence from work. As such, the claimant was not on a voluntary leave of absence from work. However, he must also establish that he was able to and available for work for this employer.

For an unemployed individual to be eligible to receive benefits, she must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that he is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871- 24.22.

The weight of the evidence indicates that from August 11, 2024, until the week ending September 14, 2024, the claimant was not able to and available for work within the meaning of the law. During that period, the claimant was restricted to light work with the option to sit and stand as needed along with other restrictions on his range of motion due to a non-work-related illness. Inasmuch as the claimant's medical condition was not work-related and the treating

physician had not released him to return to work without restrictions, the claimant has not established his ability to work while still an employee of Collins Engine Nozzles, Inc. While the claimant may have been able to perform some light-duty work, the employer was not obligated to accommodate a non-work-related medical condition or injury. As such, the claimant is not eligible for unemployment insurance benefits through the week ending September 14, 2024.

However, since the employment ended on September 13, 2024, the claimant is no longer obligated to return to the employer upon his medical release to offer his services. At that point, his ability to work is not measured by the job he held most recently, but by standards of his education, training, and work history. As the claimant has performed a range of sedentary and light duty jobs and has a postgraduate degree, the claimant has established the ability to work. Thus, the claimant is considered able to work as of September 15, 2024. Benefits are allowed effective September 15, 2024, provided the claimant is otherwise eligible.

DECISION:

The August 30, 2024, (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant was not able and available for work from August 11, 2024 through September 14, 2024, and benefits are denied on that basis for that period of time. The claimant established that he was able to and available for work effective September 15, 2024. The claimant is allowed benefits beginning September 15, 2024, provided the claimant is otherwise eligible.

REMAND:

This matter is remanded to the Iowa Workforce Development Benefits Bureau to hold a fact-finding interview and determine the claimant's eligibility for benefits based on his September 13, 2024 separation from employment with Collins Engine Nozzles, Inc.



Patrick B. Thomas
Administrative Law Judge

September 30, 2024
Decision Dated and Mailed

pbt/scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.