

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

JOSHUA HALL
Claimant

TARGET CORPORATION
Employer

APPEAL NO. 20A-UI-08079-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 30, 2020 reference 03, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on August 21, 2020. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate. Claimant's Exhibits A-B were admitted into evidence.

ISSUES:

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 worked for employer on a full time basis as a warehouse worker.

On or around January 21, 2020 claimant suffered a heart attack that kept him off from work for an extended period of time. Claimant thinks that he might have been able to return to work on or around an unspecified date in late April, but for Covid concerns. As claimant had recent major surgery and had multiple risk factors, he was, and remains high risk should he contract Covid.

In Late April, claimant was able to be put on a five-week paid leave by employer. After that leave ran out, claimant was still unable to return to work and forwarded to employer a doctor's note stating claimant should remain off of work due to being high risk.

Claimant was separated from his employment on June 10, 2020.

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 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.

Note to Claimant: Even though claimant is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance

benefits under the Coronavirus Aid, Relief, and Economic Security Act (“Cares Act”), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

DECISION:

The decision of the representative dated June 30, 2020, reference 03 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective March 22, 2020.



Blair A. Bennett
Administrative Law Judge

August 25, 2020
Decision Dated and Mailed

bab/sam