

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRET A BUCKLIN
Claimant

TPI IOWA LLC
Employer

APPEAL 20A-UI-14713-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 04/12/20
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available – Benefits Eligibility Conditions

STATEMENT OF THE CASE:

Claimant filed an appeal from the November 3, 2020 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on January 27, 2021 at 4:00 p.m. Claimant participated. Employer did not participate. Claimant's Exhibits A – C were admitted. Official notice was taken of the administrative record.

ISSUES:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed as a full-time Laborer with TPI Iowa from August 11, 2008 until his employment ended on August 10, 2020. Claimant worked from 11:00 p.m. until 7:00 a.m. Sunday evening through Friday morning.

In early April 2020, claimant had contact with someone who tested positive for Covid-19. Claimant did not experience any symptoms but informed employer of the contact pursuant to employer's Covid-19 policy. Employer required claimant to quarantine for 14 days; claimant was absent from work from due to the quarantine from April 6, 2020 until April 20, 2020. Claimant had no barriers to employment from April 6, 2020 until April 20, 2020.

Claimant could have returned to work on April 21, 2020; claimant chose not to return at that time because he heard rumors of positive cases at work during his absence. Claimant called in to work from April 21, 2020 through April 24, 2020. Employer closed April 26, 2020 through May 9, 2020 due to Covid-19. Claimant had no barriers to employment from April 26, 2020 until May 9, 2020. Claimant returned to work on May 12, 2020.

REASONING AND CONCLUSIONS OF LAW:

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

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(2) provides:

Benefit 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.

(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. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

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), (29) 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.

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

An individual claiming benefits has the burden of proof that he is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

From April 6, 2020 through April 20, 2020, claimant was not on a voluntary leave of absence from work. Claimant's absence was due to employer's Covid-19 policy. Claimant was not ill and had no barriers to employment. Claimant was able to and available for work. Benefits are allowed provided claimant is otherwise eligible.

From April 21, 2020 through April 24, 2020, claimant called in to work at his own choosing. Claimant was not available for work; benefits are denied.

From April 26, 2020 through May 9, 2020, claimant had no barriers to employment. Claimant was not working during that time because employer was closed. Claimant was able to and available for work. Benefits are allowed provided claimant is otherwise eligible.

DECISION:

The November 3, 2020 (reference 01) unemployment insurance decision is modified in favor of appellant. Claimant was able to and available for work from April 6, 2020 through April 20, 2020 and from April 26, 2020 through May 9, 2020; benefits are allowed provided claimant is otherwise eligible. Claimant was not able to and available for work from April 21, 2020 through April 24, 2020; benefits are denied for that period of time.



Adrienne C. Williamson
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February 16, 2021
Decision Dated and Mailed

acw/ol