

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ZO MUANA
Claimant

ARCOSA WIND TOWERS INC
Employer

APPEAL 21A-UI-03505-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/01/20
Claimant: Appellant (2R)

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

STATEMENT OF THE CASE:

On January 19, 2021, Zo Muana (claimant) filed an appeal from the January 14, 2021, (reference 01) unemployment insurance decision that denied benefits based upon the determination he was not able to and available for work. After due notice was issued, a telephone hearing was held on March 25, 2021. The claimant participated personally through a Mizo-Chin interpreter with CTS Language Link. Arcosa Wind Towers, Inc. (employer) did not respond to the hearing notice and did not participate. No exhibits were offered into the record.

ISSUE:

Was the claimant able to and available for work from November 1, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant has been employed full-time by the employer since November 11, 2018. The claimant's son tested positive for COVID-19 on November 1, 2020. The employer required the claimant to quarantine for two weeks beginning November 2, 2020, even though he was not sick and had not tested positive. The claimant wanted to work during this time and he returned to work following the quarantine on November 16, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was temporarily unemployed and considered able to and available for work from November 1, 2020. Benefits are allowed.

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". [Emphasis added.]

Iowa Admin. Code r. 871-24.23 provides, in relevant part:

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.

An individual claiming benefits has the burden to prove that he is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. The claimant's unrefuted testimony is that he was not ill or under the care of a doctor and he did not request a leave of absence. Therefore, the claimant was temporarily unemployed for fewer than four weeks because the employer laid him off due to a public emergency. The claimant is considered able to and available for work during this time. Accordingly, benefits are allowed from November 1, 2020 through November 14, 2020.

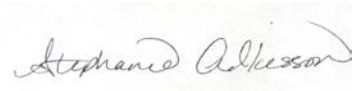
The issue of whether the employer will be charged for regular, state-funded unemployment insurance benefits paid due to Covid-19 will be remanded to the Tax Bureau of Iowa Workforce Development for a determination in accordance with the agency's announcement that it would not charge employers for benefits paid due to Covid-19.

DECISION:

The January 14, 2021, (reference 01) unemployment insurance decision is reversed. The claimant is able to work and available for work from November 1, 2020. Benefits are allowed.

REMAND:

The issue of whether employer should be charged for the unemployment insurance benefits paid to claimant because of Covid-19 is remanded to the Tax Bureau of Iowa Workforce Development for a determination.



Stephanie Adkisson
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March 26, 2021
Decision Dated and Mailed

sa/scn