

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MICHAEL ARMBRUSTER**  
Claimant

**T M INCORPORATED**  
Employer

**APPEAL 21A-UI-03432-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/26/20**  
**Claimant: Appellant (4)**

Iowa Code §96.4(3) – Able To and Available for Work  
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence  
Iowa Code § 96.19(38) – Total and Partial Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment  
Iowa Admin. Code r. 871-24.23(26) – Same Hours and Wages

**STATEMENT OF THE CASE:**

Michael Armbruster, the claimant/appellant, filed an appeal from the January 11, 2021, (reference 01) unemployment insurance decision that denied benefits as of November 8, 2020. The parties were properly notified about the hearing. A telephone hearing was held on March 24, 2021. Mr. Armbruster participated and testified. The employer participated through Cary Reisch, human resources manager. Claimant's Exhibits A and B were admitted into evidence. Official notice was taken of the administrative record.

**ISSUE:**

Is Mr. Armbruster able to and available for work as of November 8, 2020?  
Is Mr. Armbruster on a voluntary leave of absence?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Armbruster works for the employer as a full-time coordinator.

In March 2020, the United States declared a public health emergency because of the COVID 19 pandemic. Mr. Armbruster was scheduled to undergo immunosuppressant therapy on November 16, 2020. Due to the pandemic, Mr. Armbruster's medical provider advised that he self-quarantine for one week before the procedure and one week after the procedure. Mr. Armbruster discussed the matter with human resources staff who told him he could file for unemployment insurance (UI) benefits, take paid-time-off (PTO) or use Family Medical Leave Act (FMLA) leave. Mr. Armbruster chose to file for UI benefits. On November 2, 2020 Mr. Armbruster informed the employer via email that he was would be off of work from November 8, 2020 through November 21, 2020 and he attached his doctor's note to the email. Claimant's Exhibit A. Mr. Armbruster returned to work on November 23, 2020

Mr. Armbruster's wife tested positive for COVID-19 on February 1, 2021. The employer's policy provides that employees who are exposed to someone who tests positive for COVID-19 are required to self-quarantine for fourteen day per the Centers for Disease Control and Prevention (CDC) guidelines. Mr. Armbruster told the employer that his wife had tested positive for COVID-19 and he self-quarantined from February 2, 2021 through February 17, 2021. Mr. Armbruster took PTO on February 15, 2021. Mr. Armbruster returned to work on February 18, 2021.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, this administrative law judge concludes that Mr. Armbruster is not able to and available for work from November 8, 2020 through November 21, 2020 and he is temporarily unemployed from February 2, 2021 through February 17, 2021.

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 Code § 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Admin. Code r. 871-24.23(10) and (26) 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.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

Iowa Code section 96.7(2)a(2)(a) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

In this case, Mr. Armbruster was on a leave of absence from November 8, 2020 through November 21, 2020 on the advice of his doctor due to the pandemic. Mr. Armbruster was not available to work during this time period and regular, state-funded unemployment insurance benefits are denied during this time period.

Mr. Armbruster is temporarily unemployed from his full-time job from February 2, 2021 through February 17, 2021 due to the COVID-19 public health emergency. Mr. Armbruster did not request to be off of work but was off of work because of the employer's policy. Mr. Armbruster returned to his full-time job at his same wages and hours on February 18, 2021. Mr. Armbruster has no other base-period wages. Benefits are allowed during this time period as long as he is otherwise eligible.

Although the employer was not offering Mr. Armbruster the same employment at the time he was receiving benefits as in the base period contemplated at hire, no benefit charges shall be made to its account. This aligns with the Department's position to not charge employers for claims made by employees due to COVID-19 related unemployment.

Even though Mr. Armbruster is not eligible for regular unemployment insurance benefits under state law from November 8, 2020 through November 21, 2020, 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 for this time period. 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. An individual receiving PUA benefits may also receive up to the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed.

**DECISION:**

The January 11, 2021, (reference 01) unemployment insurance decision is modified in favor of the appellant, Mr. Armbruster. Mr. Armbruster was temporarily unemployed from February 2, 2021 through February 17, 2021. Benefits are allowed during this time period, provided he is otherwise eligible. No charges shall be made to the employer's account. Mr. Armbruster was not available to work from November 8, 2020 through November 21, 2020 and benefits are denied during this time period.



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March 25, 2021  
Decision Dated and Mailed

dz/kmj

**NOTE TO CLAIMANT:**

- This decision determines you are not eligible for regular unemployment insurance benefits under state law from November 8, 2020 through November 21, 2020. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**