

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

AUDREY M SCHLEI
Claimant

MASTERTSON PERSONNEL INC
Employer

APPEAL 20A-UI-15888-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/12/20
Claimant: Appellant (2)**

Iowa Admin. Code r. 871-24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

On November 13, 2020, Audrey Schlei (claimant/appellant) filed an appeal from the November 4, 2020 (reference 01) unemployment insurance decision that denied benefits as of August 9, 2020 based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was held on January 29, 2021. The parties were properly notified of the hearing. The claimant participated personally. Mastertson Personnel Inc (employer/respondent) did not register a number for the hearing and did not participate.

Official notice was taken of the administrative record.

ISSUES:

Is the claimant on an approved leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant did not request and was not granted a leave of absence as of August 9, 2020. Claimant did not even file a claim for benefits after the week ending August 8, 2020. As such, the issue of claimant's availability for work at that time is moot.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the November 4, 2020 (reference 01) unemployment insurance decision that denied benefits as of August 9, 2020 based on a finding claimant requested and was granted a leave of absence is REVERSED.

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. 871-24.23(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.

Claimant did not request and was not granted a leave of absence as of August 9, 2020. Claimant did not even file a claim for benefits after the week ending August 8, 2020. As such, the issue of claimant's availability for work at that time is moot.

DECISION:

The November 4, 2020 (reference 01) unemployment insurance decision that denied benefits as of August 9, 2020 based on a finding claimant requested and was granted a leave of absence is REVERSED.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

February 16, 2021
Decision Dated and Mailed

abd/mh