

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALLEN C SMITH
Claimant

HUSSMANN CORPORATION
Employer

APPEAL 22A-UI-00902-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/14/21
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions
Iowa Admin. Code r. 871-24.23 – Able & Available – Availability Disqualifications

STATEMENT OF THE CASE:

On December 13, 2021, the claimant filed an appeal from the December 10, 2021, (reference 01) unemployment insurance decision that denied benefits based upon a determination that claimant was on an approved leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on January 31, 2021. Claimant Allen C. Smith participated. Employer Hussmann Corporation did not participate. The administrative law judge took official notice of the administrative file.

ISSUES:

Is the claimant able to and available for work?
Is the claimant on a voluntary leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer in October 2016. Claimant works for employer as a full-time apprentice.

On or about November 15, 2021, claimant tested positive for COVID-19 and was told to quarantine for two weeks. Claimant was sick during both weeks of quarantine. He returned to work after the two-week quarantine period.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work for the two-week period ending November 27, 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 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.

(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.

Iowa Admin. Code r. 871-24.23(10) provides:

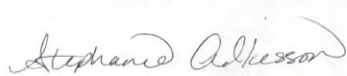
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

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. Claimant was ill and was not able to and available for work. Accordingly, he is not eligible for unemployment insurance benefits. Benefits are denied for the two-week period ending November 27, 2021.

DECISION:

The December 10, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant is not available for work for the two-week period ending November 27, 2021, and regular, state-funded unemployment insurance benefits are denied.



Stephanie Adkisson
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February 18, 2022
Decision Dated and Mailed

sa/mh