

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**THOMAS J MURPHY**  
Claimant

**ALFAGOMMA AMERICA INC**  
Employer

**APPEAL 16A-UI-09788-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/11/15**  
**Claimant: Appellant (2)**

---

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions  
Iowa Admin. Code r. 871-24.23(10) – Voluntary Leave of Absence

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the September 1, 2016, (reference 01) unemployment insurance decision that determined claimant was not eligible for benefits effective August 7, 2016, based upon a determination that claimant was on a voluntary leave of absence. The parties were properly notified of the hearing. A telephone hearing was held on October 7, 2016. The claimant, Thomas J. Murphy, participated. The employer, Alfagomma America, Inc., participated through Kristee Adam, accounting/HR manager. Employer's Exhibits 1 through 3 were received and admitted into the record without objection.

**ISSUE:**

Was claimant not able and available because he was on a voluntary leave of absence?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as an assembler, beginning January 20, 2014. On July 12, 2016, claimant's employer placed him on a leave of absence. Claimant had been absent the previous day due to a migraine headache. When claimant returned to work on July 12, the employer told him that he would be discharged due to absenteeism. At that time, claimant brought a copy of his emergency room paperwork and told the employer he believed that his migraines were work-related. At this time, the employer filed a worker's compensation claim on claimant's behalf. Adam testified that because of the potential work-related illness concern, she placed claimant on an unpaid leave of absence until worker's compensation made a determination.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's leave of absence was involuntary. Claimant is able to and available for work, and benefits are allowed.

Iowa Code § 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)j 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.

(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.

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.

Here, claimant and Adam agree that the employer initiated the leave of absence after claimant returned from a medical absence and reported that his medical condition may be work-related.

Claimant did not request to go on a leave of absence, and he did not report to the employer that he was not able to perform his job. Because claimant's leave of absence was not voluntary, and there is no evidence that he was not able to work or available for work had his employer not forced him to take a leave of absence, benefits are allowed effective the week ending August 7, 2016, provided claimant is otherwise eligible.

**DECISION:**

The September 1, 2016, (reference 01) decision is reversed. The claimant is able to work and available for work effective August 7, 2016, provided claimant is otherwise eligible.

---

Elizabeth A. Johnson  
Administrative Law Judge

---

Decision Dated and Mailed

lj/