

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ANWAR A MOHAMED
Claimant

SWIFT PORK COMPANY
Employer

APPEAL NO. 15A-UI-12422-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/11/15
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 5, 2015, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on November 30, 2015. Claimant participated. Employer failed to respond to the phone when called at the time of the hearing and did not participate. Claimant's Exhibits A-C were admitted into evidence. Interpretive services were provided by CTS Language Link.

ISSUE:

The issue in this matter is whether claimant is on an approved leave of absence?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on May 5, 2015. Claimant injured his shoulder and lost sensation in his hand while working. Claimant was released by the company doctor back to work with no restrictions on June 30, 2015. Claimant attempted to work on July 2, 2015, but his hand could not do the work required without a large amount of pain after a short period of time. Employer did not have any other work available for claimant.

Claimant was to get another doctor's opinion as to whether he could return to work with restrictions. Claimant went to another doctor on October 19, 2015, but that doctor simply set another appointment for early December 2015 without creating a document listing work restrictions, if any. Claimant did not present to the administrative law judge any further doctor's documentation subsequent to the June 30, 2015 paper which released him to return to work with or without restrictions.

REASONING AND CONCLUSIONS OF LAW:

Iowa Admin. Code r. 871-24.22(2)(1)(2)(3) provides:

Benefit 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.

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.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

The administrative law judge holds that the evidence has established that claimant is on an approved leave of absence at this time. Claimant was approved to return to work by employer's doctor with no restrictions on June 30, 2015. At this time, the administrative law judge has received no further evidence over and above claimant's unsuccessful attempt to return to work on July 2, 2015. As claimant is not able and available to work, his leave of absence is continued by employer.

DECISION:

The decision of the representative dated November 5, 2015, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant is able and available to return to work.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/pjs