

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JORDAN N DRAKE**  
Claimant

**CARE INITIATIVES**  
Employer

**APPEAL 21A-UI-03439-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 3/22/20**  
**Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work

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

**STATEMENT OF THE CASE:**

On January 21, 2021, the claimant, Jordan Drake, filed an appeal from the January 12 2021 (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant was granted a leave of absence. The parties were properly notified of the hearing. A telephonic hearing was held on March 24, 2021. The claimant, Jordan Drake, participated personally. The employer, Care Initiatives, participated through hearing representative, Alyce Smolsky, and Administrator, Nick Jedlicka. No exhibits were received into the record. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Effective October 11, 2020, was the claimant able to and available for work?

Effective October 11, 2020, was 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 her employment as a full-time Certified Nursing Assistant (CNA) with employer Care Initiatives in August 2019. Claimant still works for the employer.

On October 13, 2020, claimant's minor son experienced COVID-19 symptoms and was tested for COVID-19. Pursuant to the employer's policy, claimant was required to stay home until a negative test result was produced. Claimant was able to do that, and she returned to work after October 16, 2020 per her usual work schedule. Claimant did not receive pay for this time off. Claimant testified that she would have preferred to work, but she was required to stay home and quarantine until she received her son's negative test result.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant was able to and available for work. Benefits are allowed, provided claimant is otherwise eligible.

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:

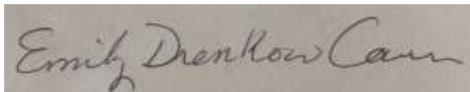
Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(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.

Here, claimant was on a mandatory leave of absence during the week of October 13, 2020. Claimant did not request a leave of absence during these weeks; she would have preferred to continue working. However, due to the pandemic and the risk of exposing coworkers and residents to COVID-19, the employer required claimant to quarantine. Because it was the employer's choice that claimant was placed on a leave of absence and not claimant's choice, the administrative law judge finds that claimant was not on a voluntary leave of absence. Claimant was otherwise able to and available for work. Benefits are allowed, provided he is otherwise eligible.

#### **DECISION:**

The January 12, 2021 (reference 02) unemployment insurance decision is reversed. Claimant was able to work and available for work effective October 11, 2020. Benefits are allowed for this time period, provided she is otherwise eligible.



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Emily Drenkow Carr  
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March 25, 2021  
Decision Dated and Mailed

Edol