

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL R HOUK
Claimant

AGREQUIP INC
Employer

APPEAL 21A-UI-09209-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Availability Disqualifications

STATEMENT OF THE CASE:

On March 26, 2021, the claimant filed an appeal from the March 17, 2021, (reference 01) unemployment insurance decision that denied benefits on the basis that claimant was on an approved leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on June 16, 2021, and was consolidated with the hearing for appeal 21A-UI-09210-S2-T. Claimant Michael R. Houk participated. Employer Agrequip, Inc. participated through owner Marvin Bricker and plant manager Ron McDowell. The administrative law judge took official notice of the administrative record.

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 on November 14, 2013. Claimant worked for employer as a full-time welder until his separation from employment on August 5, 2020.

Claimant has underlying health conditions that put him at high risk of complications if he contracts COVID 19. Claimant was concerned for his health, so on May 22, 2020, claimant gave employer a note from his medical provider stating claimant should not work for 30 days. Employer allowed claimant to take a leave of absence. Claimant provided notes to employer each month indicating he was not able to return to work. The last note stated claimant should remain out of work until July 21, 2021. Claimant did not provide any additional notes to employer after this time because he was not able to get into see his doctor. Employer had full-time work available for claimant, if he did not have concerns regarding his underlying health conditions.

On August 5, 2020, employer terminated claimant's employment for failing to report to work. The separation from employment was addressed in 21A-UI-09210-S2-T.

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 effective March 22, 2020.

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 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.

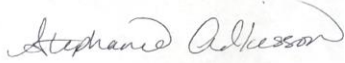
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(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Here, claimant was on a leave of absence due to his underlying health conditions. Claimant has not established he is able to and available for work, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Additionally, claimant has not been released by his medical provider to return to work. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits from the effective date of the claim.

DECISION:

The March 17, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant is not available for work effective March 22, 2020, and regular, state-funded unemployment insurance benefits are denied.



Stephanie Adkisson
Administrative Law Judge
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June 30, 2021
Decision Dated and Mailed

sa/lj