

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**CARL J BLACKBURN**  
Claimant

**APPEAL NO. 08A-UI-09622-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PINNACLE FOODS GROUP LLC**  
Employer

**OC: 09/14/08 R: 12  
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available for Work  
871 IAC 24.23(10) – Request of Leave of Absence

**STATEMENT OF THE CASE:**

Carl Blackburn appealed a representative's decision dated October 16, 2008, reference 02, which denied benefits as of September 14, 2008, finding the claimant was on a leave of absence and not available for work. After due notice was issued, a telephone hearing was held November 4, 2008. The claimant participated personally. The employer participated by Wilda Lampe, human resources specialist.

**ISSUE:**

At issue in this matter is whether the claimant is on a requested leave of absence and whether the claimant is able and available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and having considered all the evidence in the record, finds: The claimant last worked for this employer on September 21, 2007. The claimant requested and was granted a personal medical leave of absence due to non-work-related back problems. The claimant reported to the employer on or about September 18, 2008, and indicated that he had not been fully released to return to work and, at that time, a desire to resign his position with the company. Subsequently, the claimant declined to resign. Under company policy, employees are not allowed to return to work unless they are fully able to do their job if the injury or illness is non-work-related. Mr. Blackburn continued to be on a medical leave of absence at the time of hearing and has not been fully released by his physician to return to work.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence in the record establishes that Mr. Blackburn is on a medical leave of absence and not able and available for work. It does.

The evidence establishes that Mr. Blackburn requested and was granted a medical leave of absence by Pinnacle Foods Group on or about September 24, 2007, and continues to be on a medical leave of absence at the time of hearing. The claimant continues to be on a leave of absence, as he has not been able to provide a doctor's release fully releasing him to return to his job duties, a requirement if an individual is off work due to a non-work-related illness or injury.

871 IAC 24.22(2)j(1)(2) 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.

(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.

For the reasons stated herein, the administrative law judge concludes that Mr. Blackburn is on an approved medical leave of absence, voluntarily unemployed, and not available for work within the meaning of the Iowa Employment Security Act. Benefits are denied as of September 14, 2008.

**DECISION:**

The representative's decision dated October 16, 2008, reference 02, is affirmed. The claimant is on a medical leave of absence, voluntarily unemployed, and not available for work. Benefits are denied as of September 14, 2008.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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