

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

RICHARD D ELLIS
Claimant

MASTERBRAND CABINETS INC
Employer

APPEAL NO. 20A-UI-05199-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/15/19
Claimant: Appellant (1)

Iowa Admin. Code ch. 871 r. 24.23(10) – Leave of Absence
Iowa Code § 96.4-3 – Able and Available
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Federal Law PL 116-136 Sec. 2104 – Eligibility for Federal Pandemic Unemployment Compensation

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 29, 2020 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on July 7, 2020. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate. Claimant's Exhibits A-D were admitted into evidence.

ISSUES:

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

Whether claimant has been overpaid state unemployment benefits?

Whether claimant is eligible to receive Federal Pandemic Unemployment Compensation?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant works as a full time utility worker for employer. On March 30, 2020 claimant was sick and had Covid concerns. He is a high-risk individual for multiple reasons. Claimant went to a doctor who took him off from work at that time. Claimant went to multiple doctors who kept him off work until he was released to return to work with no restrictions on May 18, 2020.

After claimant was released to return to work, he did miss a few days for an unrelated illness. These days missed are in the weeks ending June 6 and June 13, 2020.

Claimant has received state unemployment benefits in this matter during the time from his most recent time off from work of \$3,138.00.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$3,600.00.

REASONING AND CONCLUSIONS OF LAW:

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.

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. 871-24.22(1)a 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.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(35) provides:

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

(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.

Claimant requested time off from work from the period of March 30, 2020 to May 18, 2020. During this time claimant is not able and available for work, and is not eligible for state unemployment benefits.

Claimant has received state unemployment benefits in this matter during the time from his most recent time off from work of \$3,138.00. Said amount is an overpayment.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$3,600.00. Claimant is not eligible to receive this payment as a result of this ruling regarding state unemployment benefits.

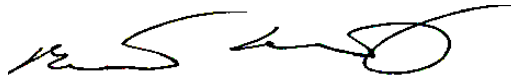
Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If claimant is found to be eligible for PUA benefits, he will also be eligible for the Federal Pandemic Unemployment Compensation benefits he has received in this matter.

DECISION:

The decision of the representative dated May 29, 2020, reference 01 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, effective March 29, 2020, through May 18, 2020.

Claimant has received state unemployment benefits in this matter during the time from his most recent time off from work of \$3,138.00. Said amount is an overpayment.

Claimant has received Federal Pandemic Unemployment Compensation benefits in this matter of \$3,600.00. Claimant is not eligible to receive this payment as a result of this ruling regarding state unemployment benefits.



Blair A. Bennett
Administrative Law Judge

July 14, 2020
Decision Dated and Mailed

bab/scn