

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMIE SCHELL
Claimant

RJK INC
Employer

APPEAL 21A-UI-05309-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/11/20
Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

On February 15, 2021, Jamie Schell (claimant) filed an appeal from the February 4, 2021, (reference 01) unemployment insurance decision that denied benefits based upon the determination he was not able to and available for work. After due notice was issued, a telephone hearing was held on April 21, 2021. Claimant participated personally. RJK, Inc. (employer) participated through RJK onsite manager Alicia McGlothlen and account manager Heather Franklin. No exhibits were offered into the record.

ISSUE:

Was the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has been employed full-time by the employer as a switchman and engineer since July 6, 2010. On October 12, 2020, claimant tested positive for COVID-19. Under the employer's policy, he was not allowed to return to work for 14 days. Claimant attempted to return to work following the quarantine. Employer requires employees who are absent for 14 or more days to complete a fit for duty assessment. When employer's onsite nurse checked claimant's blood pressure, employer determined it was too high to take the assessment. Employer would not allow claimant to return to work until his blood pressure was lowered. Employer asked claimant to return to work on light duty on November 23, 2020, due to its high work load. Claimant received no wages from employer between October 12, 2020, and November 20, 2020. Claimant wanted to work during the five-week period he was off of work. Claimant filed an initial claim for unemployment benefits effective October 11, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was unemployed and considered able to and available between October 11, 2020, and November 20, 2020. Benefits are allowed.

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". [Emphasis added.]

Iowa Code § 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Admin. Code r. 871-24.23 provides, in relevant part:

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.

(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 totally unemployed as he performed no work and received no wages between October 11, 2020, and November 20, 2020. An individual claiming benefits has the burden to prove that she is be able to and available for work. Iowa Admin. Code r. 871-24.22. In this case, claimant was required by his employer to quarantine for two weeks due to a positive COVID test. Further, claimant was able to and available for work at the end of his quarantine period but employer would not allow him to return to work under its policy regarding a fit for duty exam. At no point did claimant request a leave of absence. As such, benefits are allowed, provided claimant is otherwise eligible.

DECISION:

The February 4, 2021, (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant is able to work and available for work from October 11, 2020 through November 20, 2020. Benefits are allowed, provided claimant is otherwise eligible.



Stephanie Adkisson
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April 27, 2021
Decision Dated and Mailed

sa/ol