

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LOUIS K ZAM**  
Claimant

**APPEAL NO. 17A-UI-00758-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FRONT STREET BREWERY INC**  
Employer

**OC: 12/18/16**  
**Claimant: Respondent (4/R)**

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

**STATEMENT OF THE CASE:**

Front Street Brewery (employer) appealed a representative's January 12, 2017, decision (reference 01) that concluded Louis Zam (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for February 13, 2017. The claimant did not provide a telephone number for the hearing and, therefore, did not participate. The employer participated by Mary Jane Griffin, General Manager, and Nathan Sobotka, Owner. Exhibit D-1 was received into evidence.

**ISSUE:**

The issue is whether the claimant is available for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer on Friday and Saturday from May 26, 2014, to December 3, 2016. During his employment the claimant was tardy three times. The employer talked to the claimant about his absences but did not issue him a written warning. The claimant requested and was granted time off on December 16, 17, 24, and 25, 2016. After December 10, 2016, the employer did not schedule the claimant for work. The claimant was available to work his regular hours. The claimant filed for unemployment insurance benefits with an effective date of December 18, 2016.

**REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes the claimant is eligible to receive unemployment insurance benefits as of December 25, 2016.

Iowa Admin. Code r. 871-24.23(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

When an employee requests and is granted time off, he is considered to be unavailable for work. The claimant requested and the employer granted his request for time off. The change in hours was initiated by the claimant. He is considered to be unavailable for work during that time. The claimant is eligible to receive unemployment insurance benefits as of December 25, 2016.

The claimant has not worked for the employer for almost two months. The issue of the claimant's separation from employment is remanded for determination.

**DECISION:**

The representative's January 12, 2017, decision (reference 01) is modified in favor of the appellant. The claimant is eligible to receive unemployment insurance benefits as of December 25, 2016. The issue of the claimant's separation from employment is remanded for determination.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs