

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**BRIAN M PETERSON**  
Claimant

**NATIONWIDE MUTUAL INSURANCE CO**  
Employer

**APPEAL 21A-UI-07475-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/17/21**  
**Claimant: Appellant (1R)**

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

**STATEMENT OF THE CASE:**

The claimant/appellant, Brian M. Peterson, filed an appeal from the March 10, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits and stated she was ineligible for benefits effective January 17, 2021, due to a requested leave of absence.

The parties were properly notified about the hearing. A telephone hearing was held on May 24, 2021. The claimant participated personally. The employer participated through Jacqueline Misher, human resources consultant. Employer Exhibits 1-19 were admitted.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Was the claimant able to and available for work effective January 17, 2021?  
Was the claimant voluntarily unemployed due to a leave of absence?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant established his claim for unemployment insurance benefits with an effective date of January 17, 2021. Claimant began employment in 2017 and last physically worked on the job on December 11, 2020. He was a full-time processor. Beginning March 2020, all employees for the employer were sent home to work remotely due to COVID-19. Employees were responsible for having internet service. Claimant complied with this requirement of continued employment from March until July 2020, and against from October until December 11, 2020.

Claimant was on medical leave from July-October 2020. When he did not receive anticipated wages from employer, he did not pay his internet bill. His internet was disconnected on December 16, 2020. Employer told claimant its offices remained closed but that he could work from a friend or family’s home to use their internet.

Claimant did not and his permanent separation occurred effective January 29, 2021. The issue of claimant's permanent separation and whether he was able and available for work effective January 29, 2021 have not yet been addressed by the Benefits Bureau.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant was not able and available for work effective January 17, 2021.

For an individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that he is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

For claimant's final ten months of employment, he and all other employees for this employer were required to work remotely due to the COVID-19 pandemic. As part of working from home, employees were responsible for having internet service, and claimant knew this was required in order to continue working for employer. Claimant worked under these conditions from March until his January 29, 2021 separation.

Here, the employer has work available for the claimant. However, the claimant informed the employer that he did not pay his internet bill and therefore could not work. Claimant knew his internet bill was due and that internet access was a requirement of continued employment. When claimant told the employer, they suggested he use a family member or friend's internet. Claimant chose not to do so.

Claimant's unavailability for work was not due to employer's actions, but claimant's choices. While the administrative law judge recognizes claimant was frustrated in not being paid for a prior leave of absence in 2020, it does not alleviate him of his obligation to be able to work in order to be eligible for unemployment insurance benefits. Claimant could have paid his bill, borrowed money to pay his bill, or sought out other internet access. Claimant has not met his burden of proof to establish he was able for and to available for work, according to Iowa law. Therefore, the claimant is not eligible for regular, state-funded unemployment insurance benefits.

The issue of claimant's permanent separation and whether he was able and available for work effective January 29, 2021 is remanded to the Benefits Bureau for an initial investigation.

**DECISION:**

The unemployment insurance decision dated March 10, 2021, (reference 01) is affirmed. The claimant is not able and available for work effective January 17, 2021. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time the claimant is able to and available for work.

**REMAND:**

The issue of claimant's permanent separation and whether he was able and available for work effective January 29, 2021 is remanded to the Benefits Bureau for an initial investigation.

*Jennifer L. Beckman*

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June 03, 2021  
Decision Dated and Mailed

jlb/ol

**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, but who are unemployed or continue to be unemployed for reasons related to COVID-19 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 this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

**ATTENTION:** On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>