

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DOUGLAS E SLONEKER
Claimant

BRANDFX LLC
Employer

APPEAL NO. 21A-UI-06396-B2-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/15/20
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated February 16, 2021 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on May 10, 2021. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

ISSUE:

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

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 assembler for employer. In November of 2020 claimant's coworker's wife got Covid. As claimant works in close proximity to his work partner, claimant was asked by employer to quarantine for two weeks. Claimant stated that throughout the two weeks of his quarantine he remained able and available to work, but employer would not allow him to do so. Claimant was healthy throughout this time. Claimant did not ask for a leave of absence, but employer would not let claimant work from the dates of November 4-15, 2020.

Claimant filed an original claim in this matter on November 15, 2020. Claimant did not file any weekly claims while he was off from work during this period.

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".

Inasmuch as the claimant was never ill and never asked to be off from work, the claimant has established the ability to work for the period of November 4-15, 2020. Benefits are allowed for the period if claimant is otherwise eligible for benefits. It is noted that claimant did not file his weekly claim until November 15, 2020 and claimant did not file any weekly claims while he was off from work.

DECISION:

The decision of the representative dated February 16, 2021, reference 01 is reversed. Claimant is eligible to receive unemployment insurance benefits, effective November 15, 2020, provided claimant meets all other eligibility requirements. It is noted that claimant did not file an original claim until November 15 and noted that claimant did not file a weekly claim while he was off from work.



Blair A. Bennett
Administrative Law Judge

May 17, 2021
Decision Dated and Mailed

bab/ol