

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

HENRY F HARDER
Claimant

HY-VEE INC
Employer

APPEAL NO. 20A-UI-12844-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/05/20
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 October 8, 2020 reference 01, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on December 14, 2020. Claimant participated personally. Employer participated by hearing representative Barbara Buss and witness and Lee Kenyon.

ISSUES:

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 is employed by employer as a full time driver. On or around July 7, 2020 claimant informed employer that his wife had Covid symptoms and was being tested. Employer told claimant not to come to work until claimant's wife's test was returned. On July 11, 2020 claimant informed employer that his wife's test was negative for Covid.

At all times relevant to this matter, claimant remained able and available for work. At no time did the claimant ask for a leave of absence.

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:

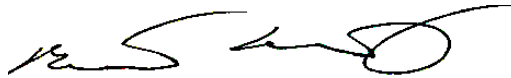
An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

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".

The claimant has not established the ability to work throughout the time period when he was off of work. Benefits shall be allowed effective July 7-11, 2020.

DECISION:

The decision of the representative dated October 8, 2020, reference 01 is reversed. Claimant is eligible to receive unemployment insurance benefits, effective July 7-11, 2020, provided claimant meets all other eligibility requirements.



Blair A. Bennett
Administrative Law Judge

December 22, 2020
Decision Dated and Mailed

bab/scn