

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTOPHER P RAMIREZ
Claimant

DEERE & COMPANY
Employer

APPEAL 20A-UI-08123-NM-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/01/19
Claimant: Appellant (4)**

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

STATEMENT OF THE CASE:

On July 9, 2020, the claimant filed an appeal from the July 7, 2020, (reference 01) unemployment insurance decision that denied benefits based on a determination that he was on a voluntary leave of absence effective April 19, 2020. The parties were properly notified about the hearing. A telephone hearing was held on August 21, 2020. Claimant, Christopher Ramirez, participated. Employer, Deere & Company participated its labor relations representative, Ed Johnson.

ISSUES:

Is the claimant able to and available for work?
Is the claimant on a voluntary leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on March 24, 2008. Claimant works for employer as a full-time assembler.

In March 2020, the United States declared a public health emergency because of the COVID 19 pandemic. From March 25, 2020 through June 5, 2020 claimant was on a leave of absence to stay home with his minor child(ren) due to COVID 19 related to school and daycare closures. Claimant returned to work effective June 6, 2020, but was temporarily laid off by the employer effective July 29, 2020. The temporary layoff was not related to COVID 19, but was due to routine plant shut down. Claimant is still on the temporary layoff.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work from March 22, 2020 through June 6, 2020, however, claimant is able to and available for work effective July 26, 2020.

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".

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.

Here, claimant was initially on a leave of absence due to a lack of childcare for reasons related to COVID 19. Claimant has not established he is able to and available for work, even under the United States Department of Labor's guidance to flexibly interpret this requirement, for this time period. See Unemployment Insurance Program Letter No. 10-20. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits from the effective date of the claim. However, claimant returned to work and was then temporarily laid off by the employer. As such, claimant is eligible for regular state unemployment insurance benefits effective July 26, 2020, but not for the weeks between March 22 and June 6, 2020.

Even though claimant is not eligible for regular unemployment insurance benefits under state law, at least for a period of time, the claimant may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed.

DECISION:

The July 7, 2020, (reference 01) unemployment insurance decision is modified in favor of the claimant. The claimant is not available for work from March 22, 2020 through June 6, 2020, regular, state-funded unemployment insurance benefits are denied for those weeks. Claimant may be eligible for Pandemic Unemployment Assistance. Claimant is able to and available for work effective July 26, 2020, and regular, state-funded unemployment insurance benefits are allowed as of that date.

Nicole Merrill
Nicole Merrill
Administrative Law Judge

August 25, 2020
Decision Dated and Mailed

nm/scn

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**