

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**MICHAEL A SIMS**  
Claimant

**INFASTECH DECORAH LLC**  
Employer

**APPEAL 21A-UI-02412-S2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/20/20**  
**Claimant: Appellant (2R)**

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

**STATEMENT OF THE CASE:**

On December 30, 2020, Michael A. Sims (claimant) filed an appeal from the December 22, 2020, reference 01, unemployment insurance decision that denied benefits effective September 20, 2020, based upon the determination he was not able to and available for work. After due notice was issued, a telephone hearing was held on March 4, 2021. Claimant participated personally. Employer Infastech Decorah, LLC did participate through human resources manager Alice Bjergum.

**ISSUE:**

Was the claimant able to and available for work effective September 20, 2020?  
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: The claimant has been employed full-time as a maintenance mechanic by the employer since September 14, 1992.

Employer maintains a written policy that if an employee attends high population gatherings, they must quarantine for 14 days before being allowed to return to work. Claimant was aware of the policy.

In September 2020, claimant's cousin passed away and he attended the funeral. Claimant used paid vacation leave on September 18, 2020. Ms. Bjergum spoke to claimant after the funeral to discuss the size of the gathering and what precautions were taken. Because it was a large funeral, claimant was required to self-quarantine and told he could return to work on October 5, 2020. During this self-quarantine period, claimant's grandmother passed away and he attended her funeral on September 24, 2020. Ms. Bjergum again spoke to claimant to discuss the event, and claimant was told he could return to work on October 12, 2020. Claimant received three days of paid bereavement leave on September 23, 24, and 25, 2020.

In October 2020, Claimant's aunt passed away and he attended her funeral on October 17, 2020. After consultation with human resources, claimant was instructed to self-quarantine and was allowed to return to work on November 2, 2020.

Claimant was not sick during the time he was required to remain at home. The claimant wanted to work during this time and he returned to work following each quarantine period.

### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to and available for work effective September 20, 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". [Emphasis added.]

Iowa Code section 96.19(38)c provides:

38. Total and partial unemployment

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Admin. Code r. 871-24.23 provides, in relevant part:

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.

Claimant's unrefuted testimony is that he was not ill or under the care of a doctor and he did not request a leave of absence. The only reason claimant did not work during the two-week period ending October 2, 2020, and the two-week period ending October 31, 2020, was because employer required him to quarantine as it was reasonably concerned about its staff safety.

Therefore, claimant was temporarily unemployed for fewer than four consecutive weeks because the employer laid him off due to a public emergency. Claimant is considered able to and available for work during this time, and is thus entitled to benefits.

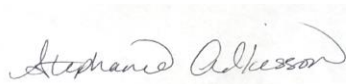
The issue of whether employer should be relieved of charges for the benefits, since claimant was unemployed due to COVID safety measures, will be remanded to the Tax Bureau of Iowa Workforce Development.

**DECISION:**

The December 22, 2020, reference 01, unemployment insurance decision is reversed. The claimant was able to and available for work effective September 20, 2020. Benefits are allowed provided claimant is otherwise eligible.

**REMAND:**

The issue of whether employer should be relieved of charges for the benefits is remanded to the Tax Bureau of Iowa Workforce Development since claimant was unemployed due to safety measures employer was taking in response to the COVID-19 pandemic.



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Stephanie Adkisson  
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March 9, 2021  
Decision Dated and Mailed

sa/lj