

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Homewood began working for the Iowa Department of Transportation (DOT) on May 9, 1983 and last worked on February 10, 2005. He was employed full time as a DOT peace officer. In February of 2005, the employer noted that Mr. Homewood was having difficulty walking. Therefore, he was required to have a fitness-for-duty exam. His doctor indicated that he was not medically able to perform the duties of his job. He was placed on a paid medical leave of absence.

On July 6, Mr. Homewood was notified that he had exhausted all available paid medical leave. He was given the opportunity to request an unpaid leave of absence. On July 8, he requested a leave of absence for the period beginning July 16 through October 16, 2005. His doctor provided verification that he needed to be on a medical leave of absence for an indefinite period of time. The doctor attributed the need for leave time to foot pain of undetermined origin. Mr. Homewood's condition has not been determined to be work-related. The request for leave was granted. As of the date of the hearing herein, Mr. Homewood had not been released to return to work.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Homewood is entitled to benefits on his claim filed effective August 21, 2005. He is unemployed because he is on a leave of absence due to an inability to perform the essential functions of his job. He is off work on the advice of his doctor. The employer was made aware of the need to be off work and granted a leave of absence. Because Mr. Homewood has not been released to return to work for DOT, he is not eligible to receive job insurance benefits. See Iowa Code section 96.5(1)d. Under the law, benefits would be denied until such time as he fully recovers from his condition and re-offers his services to the employer, provided no suitable comparable work is available at that time.

An individual who is on a requested leave of absence is not considered available for work within the meaning of Iowa Code section 96.4(3). See 871 IAC 24.22(2)j. Mr. Homewood is still on a leave of absence and has not been released to return to work. Therefore, he is not available for work as required by law.

DECISION:

The representative's decision dated September 15, 2005, reference 01, is hereby affirmed. Mr. Homewood is not eligible to receive job insurance benefits as he is not available for work. Benefits are denied until such time as he establishes to the satisfaction of Workforce Development that he is able to and available for work. Additionally, benefits are withheld until such time as he recovers from his medical condition and re-offers his services to the employer.

cfc/pjs