

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RAY J BOOTS
Claimant

EMC ACQUISITIONS INC
Employer

APPEAL 21A-UI-07928-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/26/20
Claimant: Appellant (1R)

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 March 18, 2021, the claimant filed an appeal from the March 8, 2021, (reference 04) unemployment insurance decision that denied benefits on the basis claimant was on a leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on May 27, 2021. Claimant Ray J. Boots participated. Employer EMC Acquisitions, Inc. did not register for the hearing and did not participate.

ISSUES:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on August 27, 2018. Claimant worked for employer as a full-time machinist until February 2, 2021, when his employment ended.

In January 2021, claimant's father became ill and claimant needed to give him full-time care. Claimant requested a leave of absence and was approved for a six-day leave of absence in January 2021. Claimant returned to work on or around January 23, 2021, and requested an additional leave of absence to care for his father. Claimant performed tasks such as moving his father and assisting with the bathroom. Employer did not grant the request. Claimant called in sick to work each day the following week, and on February 2, 2020, his employment ended.

Claimant filed his initial claim for benefits on April 26, 2020, and reactivated his claim effective January 31, 2020.

There has been no initial investigation or decision regarding the issue of separation from employment.

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 effective January 31, 2021.

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 provides, in relevant part:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

...

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

An individual claiming benefits must be able to work, available for work, and actively and earnestly seeking work. The claimant was not available for work effective January 31, 2021 because his father was ill and needed his full-time attention and care. The claimant testified his employment ended on February 2, 2021 because of his father's health and his need to care for his father. Benefits are denied effective January 31, 2021.

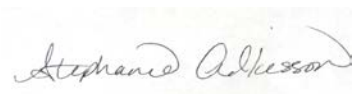
The issues of separation from employment and whether claimant is able to and available for work after the separation shall be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

DECISION:

The March 8, 2021, (reference 04) unemployment insurance decision is affirmed. The claimant is not available for work effective January 31, 2020, and regular, state-funded unemployment insurance benefits are denied.

REMAND:

The issues of separation from employment and whether claimant is able to and available for work after the separation are remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



Stephanie Adkisson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

June 9, 2021
Decision Dated and Mailed

sa/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.**