

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DARIN HANSON
Claimant

ADVANCE STORES COMPANY INC
Employer

APPEAL 22A-UI-02326-JD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/28/21
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able & Available

STATEMENT OF THE CASE:

On December 28, 2021, the claimant filed an appeal from the December 20, 2021, (reference 01) unemployment insurance decision that denied benefits based on a determination that the claimant was on an approved leave of absence. Benefits were denied as of November 28, 2021. The parties were properly notified about the hearing. A telephone hearing was held on February 16, 2022. Claimant, Darin Hanson, participated and testified. Employer participated through Equifax Hearing Representative, Karel Clark and witness Nicole Jenkins, General Manager. The administrative law judge took official notice of the administrative record.

ISSUES:

Was the claimant able to work, available for work, and actively and earnestly seeking work effective November 28, 2021?

Is the claimant totally, partially, or temporarily unemployed?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant works as a full-time associate. Claimant notified his employer on November 18, 2021 that his daughter had tested positive for Covid-19. Per the employer's Covid-19 policy and protocol the claimant was required to be off work from November 18, 2021 through November 26, 2021. Claimant tested negative for Covid-19 on November 19, 2021, and was not ill during the time frame he was required to be absent from work. Claimant returned to work on November 30, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work for the period in question. Benefits are allowed.

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, and 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 96.1A(37) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

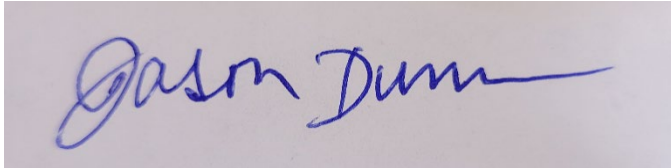
c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual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

Under Iowa Employment Security Law, an individual must be unemployed to be eligible for unemployment insurance benefits. Iowa Code § 96.1A(37). Total and temporary unemployment occur when an individual does not work or earn wages in any given week. However, temporary employment occurs when the employer does not have work for the claimant and the unemployment lasts for fewer than four consecutive weeks.

The claimant did not test positive for Covid-19 nor was he ill for the time frame he was required to be absent from his job. The claimant was totally unemployed for the dates in question and benefits are allowed.

DECISION:

The December 20, 2021, (reference 01) unemployment insurance decision is reversed. The claimant was temporarily unemployed and is considered able to work and available for work effective November 28, 2021. Benefits are allowed, provided he is otherwise eligible



Jason Dunn
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March 9, 2022
Decision Dated and Mailed

jd/scn