

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WILLIAM E HENRY
Claimant

APPEAL 21A-UI-23592-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09/26/21
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

On October 22, 2021, claimant William E. Henry filed an appeal from the October 15, 2021 (reference 01) unemployment insurance decision that denied benefits based on a determination that claimant was not able to work for the one-week period ending October 2, 2021, due to illness. The parties were properly notified of the hearing. A telephonic hearing was held at 3:00 p.m. on Tuesday, December 14, 2021. The claimant, William E. Henry, participated. The administrative law judge took official notice of the administrative record.

ISSUE:

Was the claimant able to work and available for work effective September 26, 2021?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is currently employed by Vermeer. During the week of September 26 through October 2, 2021, claimant had a one-week break in his employment due to COVID-19. Claimant tested positive for COVID-19 on Saturday, September 25. The employer's policy required claimant to stay off work for ten days from the date that he received his positive test result. Claimant remained off work through Tuesday, October 5. Claimant was allowed to resume working on Wednesday, October 6. The employer remained open and operating during claimant's one-week leave of absence due to COVID-19.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was unable to work effective September 26, 2021, for the one-week period ending October 2, 2021. Benefits are withheld.

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.

(1) An individual who is ill and presently not able to perform work due to illness.

(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 ill and unable to work effective September 26, 2021. Claimant had tested for COVID-19, a highly contagious and lethal virus. The employer had a policy in place requiring claimant to stay home from work while he was in the infectious period of the virus, in order to protect the safety and welfare of all employees. The administrative law judge finds that claimant was not able to work effective September 26 and for the one-week period ending October 2. Benefits are withheld for this one week.

DECISION:

The October 15, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant was not able to work due to illness for the one-week period ending October 2, 2021. Benefits are withheld for this one-week period.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

January 19, 2022
Decision Dated and Mailed

lj/scn