

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

LANE A ANDERSON
Claimant

APPEAL NO. 11A-UI-14249-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK
Employer

OC: 09/25/11
Claimant: Appellant (2)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant, Lane Anderson, filed an appeal from a decision dated October 25, 2011, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on November 28, 2011. The claimant participated on his own behalf. The employer, Wells Fargo, did not participate.

ISSUE:

The issue is whether the claimant is on an approved leave of absence.

FINDINGS OF FACT:

Lane Anderson was employed by Wells Fargo from beginning October 29, 2010 as a full-time underwriter. On September 15, 2011, he was indicted on charges of mortgage fraud. His manager, Greg Bell, informed him that day he was being placed on administrative leave pending the outcome of the criminal charges. He was on paid leave until the date of his separation in October 2011.

REASONING AND CONCLUSIONS OF LAW:

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".

871 IAC 24.23(10) provides:

(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.

The claimant did not request a voluntary leave of absence. He was involuntarily placed on a paid administrative leave pending the outcome of a criminal indictment. Under the provisions of the above Administrative Code section, this is not a voluntary leave and the claimant is eligible.

DECISION:

The representative's decision of October 25, 2011, reference 01, is reversed. Lane Anderson was on an administrative leave, which was not voluntary. He is eligible for benefits, provided he is otherwise eligible and qualified.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/kjw