

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD B GARRISON
Claimant

APPEAL NO. 13A-UI-13582-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EXPRESS INC OF IOWA
Employer

OC: 11/10/13
Claimant: Appellant (1)

Section 96.4-3 – Able and Available
871 IAC 24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

Richard Garrison (claimant) appealed a representative's December 4, 2013, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits as of November 10, 2013, because he was voluntarily unemployed and not unavailable to work for Heartland Express Inc of Iowa (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 6, 2014. The claimant participated personally. The employer participated by David Dalmasso, Human Resources Representative. The claimant offered and Exhibit A was received into evidence.

ISSUE:

The issue is whether the claimant is available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from May 9, 2012, to October 26, 2013. The claimant was hospitalized on October 29, 2013, with End Stage Renal Disease. He applied for and was approved for Family Medical Leave (FMLA) from October 29, 2013, through January 21, 2014. The claimant must spend three days per week at a dialysis clinic and cannot travel.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is not eligible to receive unemployment insurance benefits.

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.

When an employee requests and is granted a leave of absence, he is considered to be voluntarily unemployed. The claimant requested a medical leave of absence and the employer granted the request. The request was initiated by the claimant. He is considered to be voluntarily unemployed during the period of the medical leave of absence. The claimant is not eligible to receive unemployment insurance benefits from November 10, 2013, because he is not able and available for work

DECISION:

The representative's December 4, 2013, decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits from November 10, 2013, because he is not able and available for work

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs