

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALAN T TRIMBLE

Claimant

SEDONA STAFFING INC

Employer

APPEAL 20A-UI-01235-AW-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 01/12/20

Claimant: Appellant (2)

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

Iowa Admin. Code r. 871-24.22 – Able & Available – Benefits Eligibility Conditions

Iowa Admin. Code r. 871-24.23(10) – Availability Disqualifications – LOA period

STATEMENT OF THE CASE:

Claimant filed an appeal from the February 6, 2020 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on February 27, 2020, at 8:00 a.m. Claimant participated. Employer participated through Colleen McGuinty, Unemployment Insurance Administrator. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant is able to and available for work.

Whether claimant is on an approved leave of absence.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began his employment with Sedona Staffing, Inc., a temporary employment agency, on November 1, 2019 with an assignment as a full-time production worker at Sterilite Corporation. Claimant was absent from work on December 21, 2019 and December 22, 2019 due to a health issue. Claimant went to the hospital on December 21, 2019 for treatment for the issue. Claimant received a doctor's note that stated claimant could return to work on December 23, 2019 and that claimant had no work restrictions.

Claimant was next scheduled to work on December 26, 2019. When claimant reported to work on December 26, 2019, he provided employer with a copy of the note. Employer informed claimant that the note was not sufficient and that claimant needed to provide another doctor's note stating that claimant was able to and available for work. Claimant was next scheduled to work on December 30, 2019. When claimant reported to work on December 30, 2019, employer again told claimant that he could not return to work until he provided another doctor's note.

Since filing an original claim effective January 12, 2020, claimant has not been out of town, ill, hospitalized, incarcerated, self-employed or without transportation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant is able to and available for work. 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 96.19, 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. 871-24.22(1), (2) provide:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

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.

(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.

An individual claiming benefits has the burden of proof that he is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

Claimant did not request a leave of absence. Claimant reported to work twice and was told by employer that he could not return to work until he provided a doctor's note stating he was able to and available for work. Claimant's absence from work was not voluntary. Claimant has been able to and available for work since filing his original claim effective January 12, 2020.

DECISION:

The February 6, 2020 (reference 01) unemployment insurance decision is reversed. Claimant is able to and available for work. Benefits are allowed as of January 12, 2020, provided claimant is otherwise eligible.

Adrienne C. Williamson
Administrative Law Judge
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Decision Dated and Mailed

acw/scn