

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AKRAM A ABDELATIF
Claimant

WALMART INC
Employer

APPEAL 20A-UI-13200-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 06/21/20
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence

STATEMENT OF THE CASE:

On October 23, 2020, the claimant filed an appeal from the October 19, 2020 (reference 01) unemployment insurance decision that denied benefits to the claimant based on a leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on December 22, 2020. Claimant participated personally. Language Link provided language interpretation services to the claimant. The employer, Walmart Inc., participated through witness Timothy Shane. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUES:

Was the claimant able to and available for work?
Was the claimant on an approved leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has worked for the employer since October 8, 2016. He works as a stocking team associate on a part-time basis.

On or about June 21, 2020 until September 26, 2020, the claimant took an unpaid leave of absence from work. Claimant took a leave of absence in order to limit his potential exposure to COVID 19 as he has an underlying health condition that makes him more susceptible to serious complications should he contract COVID 19. Claimant returned to work on a part-time basis instead of a full-time basis because he wanted to continue to limit his potential exposure to COVID 19. The employer had full-time work available for him during the entire time he was on his leave of absence and when he returned on a part-time basis.

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", subparagraph (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.

(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.

Iowa Admin. Code r. 871-24.23(16) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

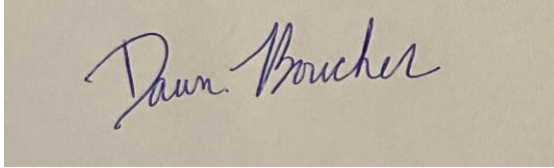
(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

In this case, the claimant was granted a voluntary leave of absence from June 21, 2020 through September 26, 2020. As such, the period of time he was not working is deemed to be a period of voluntary unemployment.

When the claimant returned to the employer, he was only willing to work part-time hours even though full-time hours were available to him. Claimant continues to limit his availability for work due to concerns of contracting COVID 19. Claimant has not established that he was able to and available for work pursuant to Iowa Code § 96.4(3). Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits effective June 21, 2020 and continuing until he establishes that he is able to and available for full-time work.

DECISION:

The October 19, 2020 (reference 01) unemployment insurance decision is affirmed. The claimant was not able to work and available for work effective June 21, 2020. Unemployment insurance benefits funded by the State of Iowa are denied effective June 21, 2020.



Dawn Boucher
Administrative Law Judge

January 11 2021
Decision Dated and Mailed

db/mh

Note to Claimant

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance ("PUA") section of the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act") that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**
For additional information on how to apply for PUA go to:
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to "Submit Proof Here." You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment->

and-recovery.

- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.