

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRIAN L LEIBFRIED
Claimant

**EAGLE WINDOW & DOOR
MANUFACTURING**
Employer

APPEAL 21A-UI-04085-S1-T

**AMENDED
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/08/20
Claimant: Appellant (3R)**

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Availability Disqualifications
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 96.4(3) – Ability to and Availability for Work

STATEMENT OF THE CASE:

Brian Leibfried (claimant) appealed a representative's January 21, 2021, decision (reference 02) that denied benefits based on his continued employment with Eagle Window & Door Manufacturing (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 2, 2021. The claimant participated personally and through his wife, Peggy Pregler-Leibfried. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. The administrative law judge took official notice of the administrative file.

ISSUES:

The issue is whether the claimant is eligible for total or partial unemployment benefits, still employed at the same hours and wages, whether the claimant is able and available for work and/or whether the employer's account is subject to charge.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on July 9, 2019, and he is currently working as a full-time assembler.

The claimant took a Covid-19 test on November 8, 2020. The negative result was given to him on November 12, 2020. A physician quarantined the claimant from November 8, 2020, through November 12, 2020. The employer allowed the claimant a leave of absence during the time of quarantine.

For the week ending February 27, 2021, the employer asked the claimant and others if they wanted to take voluntary layoff. The claimant requested voluntary layoff. Work was available if he did not choose the layoff.

The claimant filed for unemployment insurance benefits with an effective date of March 8, 2020. His weekly benefit amount was determined to be \$481.00. He filed an additional claim on February 21, 2021. The claimant received benefits of \$1,729.00 from March 8, 2020, to the week ending June 20, 2020. He received no benefits between June 21, 2020, and November 13, 2020. The claimant received benefits of \$450.00 for the week ending November 14, 2020. He filed a claim for the week ending February 27, 2021, and received no benefits. He received a total of \$2,179.00 in state unemployment insurance benefits after March 8, 2020. He also received \$4,800.00 in Federal Pandemic Unemployment Compensation for the eight-week period ending June 20, 2020.

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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)a provides:

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.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(1) and (10) provide:

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.

The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When employees are unable to perform work due to a medical condition, they are considered to be unavailable for work. When employees request and are granted a leave of absence, they are considered to be voluntarily unemployed. The claimant requested a medical leave of absence for his quarantine and the employer granted the request. The claimant is considered to be voluntarily unemployed, or unavailable for work, during the period of the leave of absence and is not eligible to receive unemployment insurance benefits as of November 8, 2020.

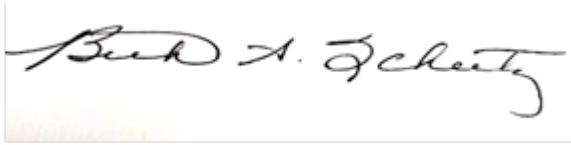
For the week ending February 27, 2020, the employer offered employees a voluntarily layoff. The claimant chose to take the layoff and the employer granted the request. The claimant is considered to be voluntarily unemployed, or unavailable for work, during the period of the leave. He is not eligible to receive unemployment insurance benefits as of the week ending February 27, 2020. .

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. The claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

DECISION:

The January 21, 2021, (reference 02) unemployment insurance decision is modified in favor of the respondent. The claimant is not able to work and available for work effective November 8, 2020.

The issue of whether claimant has been overpaid unemployment insurance benefits is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.



Beth A. Scheetz
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

April 15, 2021
Decision Dated and Mailed

bas/scn

Note to Claimant:

This decision determines you are not eligible for regular unemployment insurance benefits. 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. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.