

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CASSANDRA M SWITZER
Claimant

SEDGEWICK CLAIMS MANAGEMENT
Employer

APPEAL 21A-UI-18905-ED-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 6/13/21
Claimant: Appellant (1R)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available – Benefits Eligibility Conditions

STATEMENT OF THE CASE:

Claimant filed an appeal from the August 20, 2021 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on October 18, 2021 at 11:05 a.m. Claimant, Cassandra Switzer, participated personally. Employer, Sedgewick Claims Management, did not participate. No exhibits were offered or admitted.

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: The claimant was hired in June 2012 and most recently worked as a long term disability case specialist. The claimant's immediate supervisor was Kimberly Haliburton. The claimant is no longer employed with this employer. The claimant went on a 6 week maternity leave beginning March 2021. Claimant's maternity leave ended on May 1, 2021, when her doctor released her back to work. Claimant initially planned to return to work in early May, however, she was unable to find suitable day care at that time. Claimant's employer allowed additional time off work until May 31, 2021. Claimant did not have day care lined up yet on May 31, 2021 and did not return to work at that time. On July 1, 2021, claimant separated from employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was not able to and available for work because claimant was on a leave of absence.

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(2) provides:

Benefit 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.

(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.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

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 or she is able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

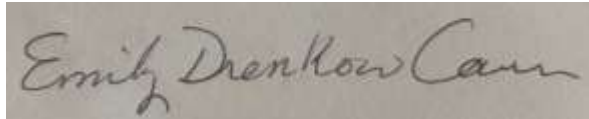
Claimant was on an approved leave of absence after 6 week maternity leave had been exhausted until her separation in July 2021. Accordingly, claimant is not eligible for unemployment insurance benefits.

DECISION:

The August 20, 2021 (reference 03) unemployment insurance decision is affirmed. Claimant, Cassandra Switzer, was on an approved leave of absence and not able to and available for work. Benefits are denied.

REMAND:

The issue of the reason for the separation from employment is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

A rectangular box containing a handwritten signature in dark ink. The signature is written in a cursive style and reads "Emily Drenkow Carr".

Emily Drenkow Carr
Administrative Law Judge

October 26, 2021
Decision Dated and Mailed

ed/ol