

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ISAAC L BLEDSOE
Claimant

**AERON ADVANCED MANUFACTURING
LLC**
Employer

APPEAL 21A-UI-16827-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/25/21
Claimant: Appellant (1R)

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

STATEMENT OF THE CASE:

The claimant, Isaac L. Bledsoe, filed an appeal from the July 26, 2021, (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant was on a voluntary leave of absence from employment with the employer, Aeron Advanced Manufacturing, LLC. The parties were properly notified of the hearing. A telephone hearing was held on September 23, 2021. The claimant participated personally. The employer participated through Alejandra Rojas. Claimant's Exhibits A and B were admitted. The administrative law judge took official notice of the administrative record.

ISSUES:

Is the claimant able to and available for work effective April 25, 2021?
Is the claimant on an approved leave of absence effective April 25, 2021?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began employment on January 13, 2019, as a supervisor in the Filling Department. He remains employed with the employer as of the date of the hearing.

Claimant last worked on April 21, 2021. That day, he saw his doctor, who sent him to the surgeon for a non-work-related medical condition. Claimant saw the surgeon on April 22, 2021, at which time the surgeon took claimant off work indefinitely. Claimant returned the doctor's note to the employer the same day, and the employer placed claimant on an unpaid medical leave of absence. The only request the employer has made of claimant is that he update it on his status; the employer has received all requested updates.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work effective April 25, 2021.

Iowa Code § 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)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(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(35) provides:

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

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

To be able to work, "[a]n 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." *Sierra v. Emp't Appeal Bd.*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871—24.22(1). "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides." *Sierra*, 508 N.W.2d at 723. The court in *Gilmore v. Emp't Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that "[i]nsofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

Claimant requested and was granted a leave of absence. In doing so, claimant made himself/herself unavailable for work during this time. Claimant is therefore not eligible for benefits during this period. Furthermore, the treating physician has not released the claimant to return to work with or without restrictions, which also establishes that claimant is not able to work. Benefits must be denied.

DECISION:

The July 26, 2021 (reference 02) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective April 25, 2021. Benefits are withheld until such time as the claimant obtains a full medical release to return to work, offers his services to the employer, and no suitable, comparable work is available considering reasonable accommodation; or if he is involuntarily separated before that time.

REMAND:

The issue of overpayment is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



Alexis D. Rowe
Administrative Law Judge

September 28, 2021
Decision Dated and Mailed

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