

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DANIEL DAWLEY
Claimant

INFASTECH DECORAH LLC
Employer

APPEAL 21A-UI-00913-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/08/19
Claimant: Appellant (2R)

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

STATEMENT OF THE CASE:

On December 14, 2020, the claimant filed an appeal from the December 9, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 12, 2021. Claimant participated. Employer did not answer at the number it provided for the hearing and did not participate.

ISSUE:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant works for employer as a full-time toolmaker.

In March 2020, the United States declared a public health emergency because of the COVID 19 pandemic.

During the week of September 13, 2020, claimant went on a trip up to the Boundary Waters with five relatives and one friend. Employer approved claimant to take the time off.

When claimant returned, employer asked him to self-quarantine for two weeks before returning to work.

Claimant did not work the two weeks ending October 3, 2020. Claimant was in town and available for work. He was not ill and had no symptoms of COVID 19.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective September 20, 2020.

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. 871-24.23(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.

Here, claimant only requested to take a small amount of vacation time. That request was approved. Claimant was back in Iowa and healthy, ready and willing to work during the two weeks ending October 3, 2020. Employer did not allow claimant to work because it was also reasonably concerned about its staff's safety.

Claimant is able to and available for work during the time periods in question and therefore meets the eligibility requirements for unemployment insurance benefits. The issue of whether employer should be relieved of charges for the benefits, since claimant was unemployed due to COVID safety measures, will be remanded to the Tax Bureau of Iowa Workforce Development.

DECISION:

The December 9, 2020, (reference 01) unemployment insurance decision is reversed. The claimant is available for work effective September 20, 2020, and regular, state-funded unemployment insurance benefits are allowed.

REMAND:

The issue of whether employer should be relieved of charges for the benefits is remanded to the Tax Bureau of Iowa Workforce Development since claimant was unemployed due to safety measures employer was taking in response to the COVID 19 pandemic.



Christine A. Louis
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February 24, 2021
Decision Dated and Mailed

cal/mh