

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ROBERT COLWELL**  
Claimant

**ALUMINUM CO OF AMERICA**  
Employer

**APPEAL 20A-UI-08009-J1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/19/20**  
**Claimant: APPELLANT (2)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.4(3) – Able and Available  
Iowa Admin. Code r. 871-24.23(10) – Approved Leave of Absence

**STATEMENT OF THE CASE:**

On July 6, 2020, the claimant filed an appeal from the June 30, 2020, (reference 01) unemployment insurance decision that denied benefits based on claimant was on a voluntary leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on August 19, 2020. Claimant participated. Employer did not participate.

**ISSUES:**

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

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on October 2004. Claimant last worked as a full-time laborer/crane operator on April 19, 2020. Claimant returned to work in May 2020, and stopped reporting to IWD. Claimant was separated from employment on April 19, 2020. Claimant was laid off due to lack of work available to claimant and about 700 other employees. The claimant's lay off was not voluntary. Claimant has been available for work during the time he was laid off.

**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 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.

Claimant has been able and avail be for work. Claimant has returned to work and is now working for the Aluminum Company of America (k/n/a Arconic).

Iowa Admin. Code r. 871-24.22(2)(1)(2)(3) 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.

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.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

The claimant was involuntarily put on the leave of absence. While the union was involved in working to minimize harm to their members, the leave was required by the employer due to lack of work. The leave was not with the consent of both parties. Claimant did not want to be laid off.

**DECISION:**

**Regular Unemployment Insurance Benefits Under State Law**

The June 30, 2020, (reference 01) unemployment insurance decision is reversed. Benefits are awarded, provided he is otherwise eligible.



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James F. Elliott  
Administrative Law Judge

August 24, 2020  
Decision Dated and Mailed

je/scn