

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DEREK J VANDER WAAL
Claimant

TRI CITY ELECTRIC CO OF IOWA
Employer

APPEAL NO. 20A-UI-07081-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/27/19
Claimant: Appellant (1R)

Iowa Admin. Code ch. 871 r. 24.23(10) – Leave of Absence
Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated June 22, 2020 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on August 3, 2020. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

ISSUE:

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant is employed as a full time electrician by employer.

For the week ending May 2, 2020 claimant stated that he was off work, as he was attending apprenticeship school.

For the week ending May 9, 2020 claimant stated that he was off from work, as he was watching his five-year-old child who was off from school, and claimant's ex-wife was unable to watch the child.

For the week ending July 11, 2020 claimant stated that he was off from work watching his sick child who had to be quarantined, as she showed up for preschool with a fever over 100.

REASONING AND CONCLUSIONS OF LAW:

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 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".

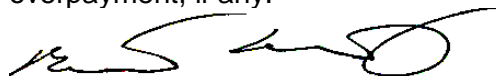
For each of the three weeks when claimant received benefits after the week ending 4-26-2020 claimant was not able and available for work. As such, claimant is not eligible to receive benefits when he is not able and available for work. Benefits are denied for the three weeks in question.

Note to Claimant: Even though 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. **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>.

DECISION:

The decision of the representative dated June 22, 2020, reference 01 is affirmed. Claimant is not eligible to receive unemployment insurance benefits for the weeks ending May 2, 2020, May 9, 2020 and July 11, 2020.

This matter is remanded to the benefits bureau for a determination of the amount of overpayment, if any.



Blair A. Bennett
Administrative Law Judge

August 10, 2020
Decision Dated and Mailed
bab/sam