

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DARRELL J FEIGERT
Claimant

DOLLAR TREE STORES INC
Employer

APPEAL 21A-UI-08232-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the March 16, 2021, (reference 01) unemployment insurance decision that denied benefits based upon claimant not being able to and available for work. After due notice was issued, a telephone conference hearing was scheduled to be held on June 3, 2021. Claimant Darrell J. Feigert participated. Witness Colletta Whenham testified on behalf of the claimant. Employer Dollar Tree Stores, Inc. did not register for the hearing and did not participate. Claimant's Exhibit A was received.

ISSUES:

Was the claimant able to and available for work effective March 15, 2020?
Was the claimant on an approved leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant worked for the employer as a cashier since September 2018. Claimant requested a leave of absence and employer approved the leave of absence, effective March 14, 2020. Claimant requested the leave of absence due to being high risk if exposed to COVID-19. (Claimant's Exhibit A). Claimant returned to work on May 14, 2021, after receiving his COVID-19 vaccine.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work effective March 15, 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.

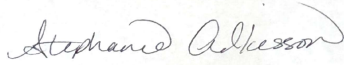
(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

For an unemployed individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that he is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

Here, claimant informed the employer he was unable to work due to being high risk if exposed to COVID-19. The employer agreed to allow the claimant time off for that reason. The claimant was considered to be on a voluntary leave of absence. Claimant has not established he is able to and available for work, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits from the effective date of the claim.

DECISION:

The March 16, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective March 15, 2020. Benefits are denied.



Stephanie Adkisson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

June 17, 2021

Decision Dated and Mailed

sa/kmj

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.