

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DUSTIN D MARTIN**  
Claimant

**BUNN-O-MATIC CORPORATION**  
Employer

**APPEAL 20A-UI-10581-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20**  
**Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Availability Disqualifications

**STATEMENT OF THE CASE:**

On September 3, 2020, the claimant filed an appeal from the August 31, 2020, (reference 01) unemployment insurance decision that denied benefits based on claimant's availability for work. The parties were properly notified about the hearing. A telephone hearing was held on October 19, 2020. Claimant participated. Employer participated through human resource generalist Gabrielle Rutledge.

**ISSUES:**

Is the claimant able to and available for work?  
Is the claimant on a voluntary leave of absence?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on April 5, 2004. Claimant works for employer as a full-time material handler.

In March 2020, the United States declared a public health emergency due to the COVID 19 pandemic. Employer shut down the factory and claimant was laid off effective March 25, 2020. After two weeks, employer began gradually recalling employees. Claimant did not return to work after some other employees were called back. Claimant has lesions on his lungs, and employer allowed him to stay on layoff because of those conditions.

Claimant returned to work at the end of May 2020. At that time, employer required all employees to wear face masks. Claimant was unable to tolerate the face mask and notified employer of this. Employer instructed claimant to stay on furlough as it still was not running on full capacity.

In August 2020, employer began allowing employees to wear face shields. Claimant returned to work on Thursday, August 6, 2020.

Employer began running at full capacity in approximately September 2020.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to and available for work effective March 22, 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.

In this case, claimant was unemployed due to lack of work. Although claimant did have an underlying health condition, employer was not running at full capacity, so it merely allowed claimant to be one of those employees who remained on layoff. Claimant did not request a leave of absence. Employer did not have work available for its full workforce. Claimant was unemployed due to a lack of work.

**DECISION:**

The August 31, 2020, (reference 01) unemployment insurance decision is reversed. The claimant is able to and available for work effective March 22, 2020. Benefits are allowed, provided claimant is otherwise eligible.



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Christine A. Louis  
Administrative Law Judge  
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November 18, 2020  
Decision Dated and Mailed

cal/scn