

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DUSTIN M CRAWFORD
Claimant

WELLS FARGO BANK NA
Employer

APPEAL 21A-UI-17004-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/28/21
Claimant: Appellant (1R)**

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

STATEMENT OF THE CASE:

The claimant, Dustin M. Crawford, filed an appeal from the July 26, 2021, (reference 01) unemployment insurance decision that denied benefits based upon the determination that claimant was on a voluntary leave of absence from employment with the employer, Wells Fargo Bank, NA. The parties were properly notified of the hearing. A telephone hearing was held on September 24, 2021. The claimant participated personally. The employer participated through Shannon Marasco. The administrative law judge took official notice of the administrative record.

ISSUES:

Is the claimant able to and available for work?
Is 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 began employment as an account resolutions specialist on April 20, 2020. He remains employed by the employer as of the date of his hearing.

Claimant last worked on July 1, 2020. Thereafter, the employer approved a paid form of leave due to the COVID-19 pandemic and claimant and his family's risk due to COVID-19. The employer granted this leave pursuant to doctor's notes from claimant's physician, as well as his spouse's physician. This paid absence from work persisted through March 30, 2021. Then, as of April 1, 2021, because claimant could not return to work, he was transitioned to leave status, in which he receives only 65% of his pay. It was at this time that he applied for unemployment benefits. He has been reporting his wages earned during this time, as is required. Claimant expects to return to work on October 4, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work effective March 28, 2021.

Iowa Code § 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.

Claimant was granted a leave of absence, though he did not request the status change. He remained on leave pursuant to a doctor's note that authorized such leave in order to allow claimant to protect himself and his family from COVID-19. In doing so, claimant made himself/herself unavailable for work during this time. Claimant is therefore not eligible for benefits during this period.

DECISION:

The July 26, 2021 (reference 01) unemployment insurance decision is affirmed. The claimant is not able to work and available for work effective March 28, 2021. Benefits are withheld until such time as the claimant obtains a full medical release to return to work, offers his services to the employer, and no suitable, comparable work is available considering reasonable accommodation; or if he is involuntarily separated before that time.

REMAND:

The issue of overpayment is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.



Alexis D. Rowe
Administrative Law Judge

September 29, 2021
Decision Dated and Mailed

ar/mh

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 unemployed or continue to be 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.

ATTENTION: On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.