

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**JUAN J SANCHEZ HERRERA**  
Claimant

**APPEAL NO: 14A-UI-11113-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE HON COMPANY**  
Employer

**OC: 09/21/14  
Claimant: Appellant (1)**

871 IAC 24.23(10) – Leave of Absence

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's October 16, 2014 determination (reference 02) that denied him benefits as of September 21, 2014, because he was on a leave of absence and not voluntarily unemployed. The claimant participated at the November 14 hearing. Sandra Linsin, the employer's representative, and Cherie McCluksky, the member community relation business partner, participated on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not eligible to receive benefits.

**ISSUE:**

Is the claimant voluntarily unemployed because he is on a leave of absence?

**FINDINGS OF FACT:**

The claimant went on a medical leave of absence, FMLA, on October 10, 2013. The FMLA leave expired on January 10, 2014. The claimant then went on a personal medical leave. As of the date of the hearing, the employer still considers the claimant an employee who is on a personal medical leave.

The claimant's physician released the claimant to return to work on April 24, 2014, with work restrictions. The work restrictions included not operating heavy equipment, not working near forklifts and no work that required fine motor skills. The claimant worked for the employer as a computer numerical control machine operator. The employer was unable to accommodate the claimant's work restrictions.

The claimant established a claim for benefits during the week of September 21, 2014. When he established his claim, his work restrictions had not changed. Since the claimant established his claim he has not been looking for work.

During the week of November 10, the claimant saw his physician. The claimant understood his physician would mail to him his current work restrictions the week of November 17, 2014. When the claimant receives the new work restrictions, he understands he should provide the employer

with a copy so the employer can determine if they can accommodate his new or updated restrictions. If the employer can accommodate his work restrictions, the claimant will return to work.

**REASONING AND CONCLUSIONS OF LAW:**

When a claimant requests and is granted a leave of absence, this requested leave is deemed as a voluntarily period of unemployment. A claimant is not eligible to receive benefits when he is on leave of absence. 871 IAC 24.23(10). Even though the claimant was released to work with restrictions in April 2014, he remains on a personal leave of absence. As of September 21, 2014, the claimant had the same work restrictions that he had in April. As of September 21, the claimant was still on a leave of absence and is not eligible to receive benefits.

The claimant understood his physician was going to send him new or updated work restrictions during the week of November 17. After the claimant receives this information, he should forward that information to the employer to determine if the employer has work the claimant that is within his new or updated work restrictions. As of the date of the hearing, the claimant was still on an approved leave of absence. Therefore, as of September 21, the claimant is not eligible to receive benefits because for unemployment insurance purposes he is considered to be voluntarily unemployed.

**DECISION:**

The representative's October 16, 2014, reference 02, determination is affirmed. The claimant is not eligible to receive benefits as of September 21, 2014, because he is still on an approved leave of absence and is considered to be voluntarily unemployed.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css