

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHRISTIAN M LLOYD
Claimant

BAKER ELECTRIC INC
Employer

APPEAL 20A-UI-09436-SC-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 05/03/20
Claimant: Appellant (1-R)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

On August 7, 2020, Christian M. Baker (claimant) filed an appeal from the August 5, 2020, reference 02, unemployment insurance decision that denied benefits for the two weeks between May 3 and May 16, 2020, based upon the determination he was not able to and available for work. After due notice was issued, a telephone hearing was held on September 23, 2020. The claimant participated personally. The employer participated through Jennifer Pederson, Payroll Administrator. The Claimant's Exhibit A was admitted into the record.

ISSUE:

Was the claimant able to and available for work for the two weeks between May 3 and May 16, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began working for the employer on September 28, 2018 as an Apprentice Electrician. On May 6, 2020, the claimant arrived to work, but the employer sent him home because he had a fever. He could not get tested for COVID-19; however, the doctor advised him to stay home for ten days. (Exhibit A) The claimant complied with his doctor's advice and returned to work on or about May 18.

The claimant has also filed for benefits for the weeks ending June 6 and June 27, when he attended apprenticeship training. The employer does not pay a stipend and advises its employees to file for unemployment insurance benefits. Whether the claimant is able to and available for work during the two weeks ending June 6 and June 27 has not yet been investigated or adjudicated by the Benefits Bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not able to and available for work from May 3 through May 16, 2020. Regular unemployment insurance benefits are denied.

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. 871-24.22 provides, in relevant part:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

...

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services

which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

...

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

Iowa Admin. Code r. 871-24.23 provides, in relevant part:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(1) An individual who is ill and presently not able to perform work due to illness.

...

(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.

...

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

An individual claiming benefits has the burden to prove that he is able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. The claimant was ill and advised not to work by his doctor. Accordingly, he was not able to and available for work and is not eligible for regular unemployment insurance benefits.

Whether the claimant was able to and available for work during the two weeks ending June 6 and June 27 is remanded to the Benefits Bureau for a fact-finding interview, to include both parties, followed by an unemployment insurance decision with appeal rights.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The August 5, 2020, reference 02, unemployment insurance decision is affirmed. The claimant was not able to and available for work from May 3 through May 16, 2020. Regular unemployment insurance benefits are denied.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though the claimant is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the CARES Act. 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 in FPUC. This decision does not address whether the claimant is eligible for PUA. For a decision on such eligibility, the claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

REMAND:

Whether the claimant was able to and available for work during the two weeks ending June 6 and June 27 is remanded to the Benefits Bureau for a fact-finding interview, to include both parties, followed by an unemployment insurance decision with appeal rights.



Stephanie R. Callahan
Administrative Law Judge

September 25, 2020
Decision Dated and Mailed

src/sam

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.