

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RACE X TERRONEZ
Claimant

CUSTOM-PAK INC – LP2
Employer

APPEAL 20A-UI-06966-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/22/20
Claimant: Appellant (1R)

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

STATEMENT OF THE CASE:

On June 23, 2020, the claimant filed an appeal from the June 17, 2020 (reference 03) unemployment insurance decision that denied benefits to the claimant based on him being on a leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on July 31, 2020. Claimant participated personally. The employer, Custom-Pak Inc. – LP2, participated through witness Vicki Rixen. Employer's Exhibit 1 was admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records. This hearing was held in conjunction with Appeal 20A-UI-06965-DB-T.

ISSUES:

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

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has worked for the employer since February 27, 2020. He worked as a full-time manufacturing team member. Dick Cahill was his immediate supervisor.

Claimant has medical conditions which place him at a greater risk of complications should he contract the coronavirus. Claimant's physician recommended that he not work and quarantine during the COVID 19 pandemic. Due to the claimant's medical conditions, he requested and was granted a leave of absence from work. He was on a leave of absence from March 24, 2020 through May 7, 2020. The employer asked him to come back to work at his same position with the same hours and same wages as he was previously working during a telephone call on April 29, 2020. Claimant's medical conditions still exist and he is currently not able to and available for work due to the COVID 19 pandemic and his underlying medical conditions.

The issue of whether the claimant's separation from employment was disqualifying has not yet been adjudicated by the Benefits Bureau of Iowa Workforce Development. The separation from

employment issue shall be remanded for an investigation and determination, with notice and opportunity to be heard provided to both parties.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

In order to be eligible for regular unemployment insurance benefits funded by the State of Iowa, the claimant must first establish that he is able to and available for work.

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", subparagraph (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, the claimant notified the employer that he could not work and he was granted a leave of absence. As such, the period of time he is not working is deemed to be a period of voluntary unemployment. Claimant has not established that he is able to and available for work pursuant to Iowa Code § 96.4(3). Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits from March 22, 2020 through May 7, 2020 due to his leave of absence. He has further been unable to and unavailable for work due to his doctor's recommendations to self-quarantine. Regular unemployment insurance benefits funded by the State of Iowa are denied effective March 22, 2020.

However, individuals who do not qualify for regular unemployment insurance benefits funded by the State of Iowa, but who are currently unemployed for reasons related to COVID-19 may qualify for ("PUA"). **You will need to apply for PUA to determine your eligibility under the program. See Note to Claimant below.**

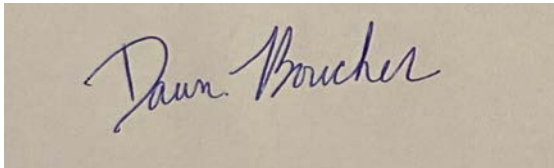
DECISION:

The June 17, 2020 (reference 03) unemployment insurance decision is affirmed. The claimant is not able to and available for work. Regular unemployment insurance benefits funded by the State of Iowa are denied effective March 22, 2020, due to the claimant's inability to work and unavailability for work, and continuing until such time as he is able to and available for work.

This decision denies regular unemployment insurance benefits funded by the State of Iowa. If this decision becomes final or if you are not eligible for unemployment insurance benefits under PUA, you may have an overpayment of benefits.

REMAND:

The separation from employment issue delineated in the findings of fact is remanded to the Benefits Bureau for an initial investigation and determination.

A rectangular box containing a handwritten signature in blue ink that reads "Dawn Boucher".

Dawn Boucher
Administrative Law Judge

August 5, 2020
Decision Dated and Mailed

db/scn

Note to Claimant

- This decision determines you are not eligible for regular unemployment insurance benefits funded by the State of Iowa under state law. 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.
- If you do not qualify for regular unemployment insurance benefits funded by the State of Iowa under state law, you may qualify for benefits under the Federal Pandemic Unemployment Assistance ("PUA") section of the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act") that discusses eligibility for claimants who are unemployed due to the Coronavirus.
- **You will need to apply for PUA to determine your eligibility under the program.**
For additional information on how to apply for PUA go to:
<https://www.iowaworkforcedevelopment.gov/pua-information>.
- If you are denied regular unemployment insurance benefits funded by the State of Iowa and wish to apply for PUA, please visit:
<https://www.iowaworkforcedevelopment.gov/pua-information> and scroll down to "Submit Proof Here." You will fill out the questionnaire regarding the reason you are not working and upload a picture or copy of your fact-finding decision. Your claim will be reviewed for PUA eligibility. If you are eligible for PUA, you will also be eligible for Federal Pandemic Unemployment Compensation (FPUC) until the program expires. Back payments PUA benefits may automatically be used to repay any overpayment of state benefits. If this does not occur on your claim, you may repay any overpayment by visiting:
<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-overpayment-and-recovery>.
- If you have applied and have been approved for PUA benefits, this decision will **not** negatively affect your entitlement to PUA benefits.