

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISIONS, UI APPEALS BUREAU**

ROBERT J HALL
Claimant

TARGET CORPORATION
Claimant

APPEAL 22A-UI-17473-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/14/22
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Robert J. Hall, the claimant/appellant, filed an appeal from the Iowa Workforce Development (IWD) September 16, 2022 (reference 01) unemployment insurance (UI) decision that denied REGULAR (state) UI benefits as of August 14, 2022 because IWD records showed that Mr. Hall had requested and was on a leave of absence. A telephone hearing was held on October 19, 2022. Mr. Hall participated personally. The employer did not participate in the hearing. The administrative law judge took official notice of the administrative record.

ISSUE:

Is Mr. Hall able to and available for work?
Is Mr. Hall on a leave of absence?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Hall began working for the employer on December 7, 2021. He works as a full-time team associate/warehouse worker. In that job, Mr. Hall unloads trucks and continuously lifts heavy products.

Mr. Hall is diagnosed with multiple sclerosis. In May 2022, Mr. Hall had a relapse/flair up and went to his doctor. Mr. Hall's doctor advised that he take a leave of absence from work. Mr. Hall did so. Mr. Hall was on leave from May 11, 2022 through July 29, 2022.

On July 29, Mr. Hall's doctor released him to return to work with the restriction that Mr. Hall could not lift more than 35 pounds continuously for more than 6 hours. The next day, Mr. Hall told the employer that his doctor had released him to return to work and that he had one restriction. The employer told Mr. Hall that they would look into the matter and get back to him. Mr. Hall went back to the employer twice to see if they could accommodate his work restriction. Each time, the employer told Mr. Hall that the employer did not have work available for him with his work restriction. Mr. Hall applied for UI benefits effective August 14, 2022 because he had no income.

After IWD issued the September 16, 2022 (reference 01) UI decision denying Mr. Hall UI benefits, Mr. Hall went back to the employer to see if they had work available for him, given his work restriction. The employer told Mr. Hall he could return to work on September 19 in his team associate/warehouse worker job. Mr. Hall did so. The team associate/warehouse worker job did not comply with Mr. Hall's work restrictions. On September 21, the employer told Mr. Hall that they could not accommodate his work restriction and the employer sent him home. As of the hearing date, Mr. Hall's doctor has not yet released him to return to work without restrictions.

REASONING AND CONCLUSIONS OF LAW:

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

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(1) provides:

Benefit 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.

b. Interpretation of ability to work. The law provides that an individual must be able to work to be eligible for benefits. This means that the individual must be physically able to work, not necessarily in the individual's customary occupation, but able to work in some reasonably suitable, comparable, gainful, full-time endeavor, other than self-employment, which is generally available in the labor market in which the individual resides.

Iowa Admin. Code r. 871-24.23(1) and (10) provide:

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.

(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.

To be able to work, "[a]n 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." "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides." A person claiming benefits has the burden of proof that she is able to work, available for work, and earnestly and actively seeking work. The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004) noted that "[i]nsofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits."

In this case, Mr. Hall's medical condition is not work-related and his doctor has not released him to return to work without restriction. Therefore, Mr. Hall has not established his ability to work as of August 14, 2022, the effective date of his claim. While Mr. Hall may be able to perform light work duties, the employer is not obligated to accommodate a non-work-related medical condition, and since Mr. Hall has not been released to perform his full work duties, he is not considered able to or available for work. Benefits are denied as of August 14, 2022.

DECISION:

The September 16, 2022 (reference 01) UI decision is AFFIRMED. Mr. Hall is not able to and available for work as of August 14, 2022. Benefits are denied as of August 14, 2022.

A handwritten signature in black ink, appearing to read "Daniel Zeno", written in a cursive style.

Daniel Zeno
Administrative Law Judge

October 25, 2022
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with this decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to **file a petition for judicial review in District Court** within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de **presentar una petición de revisión judicial en el Tribunal de Distrito** dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.