

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**STEVEN A SCHMIDT**  
Claimant

**WEST CENTRAL IOWA SHELTERED  
WORKS**  
Employer

**APPEAL NO. 21A-UI-05516-B2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/22/20**  
**Claimant: Appellant (2R)**

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

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated February 8, 2021 reference 03, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on April 26, 2021. Claimant participated personally. Employer participated by Brittany Webb.

**ISSUE:**

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant works as a part time bus driver for employer.

On November 22, 2020 employer laid off claimant for Covid-related reasons and because of a lack of ridership. Claimant returned to work on February 1, 2021. Claimant did not ask for or receive a leave of absence. At all times relevant, claimant remained able and available for work, had there been work for him.

Employer stated that they did not object to claimant's claim in this matter as the temporary separation was brought about by employer and not claimant.

**REASONING AND CONCLUSIONS OF LAW:**

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.

Iowa Code section 96.4(3) provides:

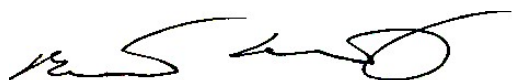
An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

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".

The claimant has established the ability to work throughout the period between November 22, 2020 and February 1, 2021. Benefits shall be allowed effective November 22, 2020 through February 1, 2021 if the claimant is otherwise eligible for benefits. This matter will be remanded to the fact finder for a determination on the separation issue.

**DECISION:**

The decision of the representative dated February 8, 2021, reference 03 is reversed and remanded to the fact finder on the separation issue. Claimant is eligible to receive unemployment insurance benefits, effective November 22, 2020 through February 1, 2021, provided claimant meets all other eligibility requirements.



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Blair A. Bennett  
Administrative Law Judge

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April 30, 2021  
Decision Dated and Mailed

bab/kmj