

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROBERT DORR JR
Claimant

AMERICOLD LOGISTICS LLC
Employer

APPEAL 21A-UI-18338-SN-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/16/21
Claimant: Appellant (1)

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:

The claimant, Robert Dorr Jr., filed an appeal from the August 11, 2021, (reference 02) unemployment insurance decision that denied benefits based upon the conclusion he was not able and available for work. The parties were properly notified of the hearing. A telephone hearing was held on October 12, 2021. The claimant participated and testified. Dock Supervisor Robert Kolar provided testimony in support. The employer participated through UI Hearing Representative Anthony Scott and Human Resources Director Brook Donovan.

ISSUE:

Was the claimant able to work, available for work, and actively and earnestly seeking work the week ending May 16, 2021?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

The claimant has worked as a full-time LTO / Equipment Operator for the employer, Americold Logistics LLC, since November 13, 2017.

On May 14, 2021, the claimant requested a leave of absence to stay home with his fiancé because her physician instructed him to do so, in order to improve her mental health. The claimant was granted the leave of absence beginning on May 24, 2021. The administrative record DBRO shows the claimant earned \$425.00 for the week ending May 22, 2021.

The claimant remained on this leave of absence until June 14, 2021. He was not compensated while he was on leave. The administrative record shows the claimant earned \$450.00 for the week ending June 19, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work effective May 16, 2021.

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)a provides:

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.

Iowa Admin. Code r. 871-24.22(2) 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.

(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.

Iowa Admin. Code r. 871-24.23 provides:

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

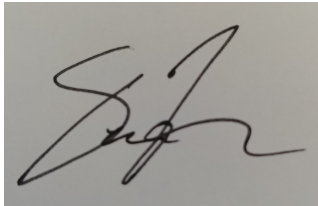
(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

An individual claiming benefits has the burden of proof that he is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

The claimant was on a leave of absence from May 24, 2021 to June 14, 2021. This makes him ineligible for unemployment insurance benefits for that period of time under Iowa Admin. Code r. 871-24.23(10). Accordingly, he is not eligible for unemployment insurance benefits.

DECISION:

The August 11, 2021, (reference 02) unemployment insurance decision is affirmed. The claimant was not able to work and available for work effective May 16, 2021. Benefits are denied.



Sean M. Nelson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Fax (515) 725-9067

October 14, 2021
Decision Dated and Mailed

smn/kmj