

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

STEPHANIE A QUILLEN
Claimant

APPEAL NO: 20A-UI-11839-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DANFOSS POWER SOLUTIONS (US) COMP
Employer

OC: 07/19/20
Claimant: Appellant (1R)

871 IAC 24.23(10) – Leave of Absence
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the September 8, 2020, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on November 18, 2020. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing.

ISSUE:

The issue is whether the claimant was able and available for work and whether she was on a leave of absence.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a full-time production/operations technician for Danfoss Power Solutions from May 15, 2015 to July 19, 2020. The claimant suffered a seizure November 21, 2018, and the employer placed her on a paid medical leave of absence from November 21, 2018 through July 19, 2020. It terminated her employment July 19, 2020, because although her treating neurologist released her without restrictions November 23, 2019, the employer's doctor placed several restrictions on the claimant's employment and the employer said because of the restrictions she could not perform her job without accommodations that it was not willing to provide. The employer terminated the claimant's employment July 19, 2020. The claimant began looking for another job immediately and started a new position at Continental approximately one month after her separation.

The issue of the claimant's separation from this employer has not yet been heard or adjudicated by the Benefits Bureau.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not able and available for work and did take a leave of absence.

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. 871.24.23(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.

The claimant was on a paid leave of absence from November 21, 2018 through July 19, 2020, at which time her employment was terminated. She is not considered able and available for work while on a leave of absence. Therefore, benefits must be denied from November 21, 2018 through July 19, 2020.

The issue of the claimant's separation from employment July 19, 2020, is remanded to the Benefits Bureau for an initial determination and adjudication.

DECISION:

The September 8, 2020, reference 01, decision is affirmed. The claimant was not able and available for work and did take a leave of absence effective November 21, 2018. Benefits are withheld until such time as the claimant makes herself available for work to the extent she was available during the base period history and the employer has no comparable or suitable work available.

REMAND:

The issue of the claimant's separation from this employer is remanded to the Benefits Bureau for an initial determination and adjudication.



Julie Elder
Administrative Law Judge

November 24, 2020
Decision Dated and Mailed

je/scn