

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JESSE R CARFRAE**  
Claimant

**WALMART INC.**  
Employer

**APPEAL 24A-UI-03231-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/11/24  
Claimant: Appellant (1)**

Iowa Code § 96.4(3) – Able to and Available for Work

**STATEMENT OF THE CASE:**

Jesse R. Carfrae, the claimant/appellant,<sup>1</sup> appealed the Iowa Workforce Development (IWD) March 13, 2024, (reference 02) unemployment insurance (UI) decision. IWD denied Mr. Carfrae REGULAR (state) UI benefits as of February 11, 2024 because IWD concluded he requested and the employer granted him a leave of absence so he is not available for work. On March 26, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Carfrae and the employer for a telephone hearing scheduled for April 16, 2024.

The administrative law judge held a telephone hearing on April 16, 2024. Mr. Carfrae participated personally. The employer participated in the hearing through Adan Corral, hearing process manager. The administrative law judge took official notice of the administrative record and admitted Employer's Exhibits 1-8 as evidence.

The administrative law judge concludes Mr. Carfrae is not eligible for UI benefits as of February 11, 2024.

**ISSUES:**

Is Mr. Carfrae able to and available for work as of February 11, 2024?

Is Mr. Carfrae on an approved leave of absence as of February 11, 2024?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: Mr. Carfrae began working for the employer on October 14, 2023. He is employed as a full-time team associate/cashier.

Mr. Carfrae has suffered from ankle pain for the past five years due to a genetic issue. His pain got worse as he worked his cashier job. Mr. Carfrae's medical provider told him that he should stay off his feet until he had surgery. Mr. Carfrae requested to be leave. On February 26, the

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<sup>1</sup> Claimant is the person who applied for UI benefits. Appellant is the person or employer who appealed.

employer approved Mr. Carfrae to be on unpaid medical leave from February 12 through June 19, 2024. Mr. Carfrae applied for UI benefits effective February 11 because the employer was not paying him while he was on leave.

In April 2024, Mr. Carfrae asked the employer for a reasonable accommodation so he could return to work and earn money. The employer approved Mr. Carfrae for an accommodation and he returned to work as of April 13. Mr. Carfrae's doctor continues to advise that he stay off his feet.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes Mr. Carfrae is not able to and available for work as of February 11, 2024, the starting date of his UI claim.

Iowa Code § 96.4(3) provides, in relevant part:

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 96.1A, subsection 37, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, paragraph "c".

Iowa Admin. Code r. 871-24.22(1)a 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.

Iowa Admin. Code r. 871-24.23(6) provide:

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

(6) If an individual has a medical report on file submitted by a physician, stating such individual is not presently able to 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.

A person claiming benefits has the burden of proof that she is be able to work, available for work, and earnestly and actively seeking work.<sup>2</sup> 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."<sup>3</sup> "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."<sup>4</sup> "[O]nly those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits."<sup>5</sup>

In this case, Mr. Carfrae asked for the employer approved him for medical leave beginning February 12, 2024. Mr. Carfrae's doctor continues to advise that he stay off his feet. Mr. Carfrae is able to and available for work as of February 11, 2024, and he is not eligible for UI benefits as of February 11, 2024.

**DECISION:**

The March 13, 2024 (reference 02) UI decision is AFFIRMED. Mr. Carfrae is not able to and available for work as of February 11, 2024. Mr. Carfrae is not eligible for UI benefits as of February 11, 2024.



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Daniel Zeno  
Administrative Law Judge

April 18, 2024  
Decision Dated and Mailed

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<sup>2</sup> Iowa Admin. Code r. 871-24.22.

<sup>3</sup> *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1).

<sup>4</sup> *Sierra* at 723.

<sup>5</sup> *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44 (Iowa Ct. App. 2004)

**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  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
Fax: (515)281-7191  
Online: [eab.iowa.gov](http://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  
6200 Park Avenue Suite 100  
Des Moines, Iowa 50321  
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 adquiera 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.