

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALBERT H OXLEY
Claimant

TREEHOUSE PRIVATE BRANDS INC
Employer

APPEAL 19A-UI-05119-H2T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 05/19/19
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 filed an appeal from the June 18, 2019, (reference 01) decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on July 17, 2019. Claimant participated. Employer participated through Joe Schreder, Human Resources Manager.

ISSUE:

Was the claimant eligible for unemployment insurance benefit for the period from May 19, 2019 through May 25, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant did not work from May 19 through May 25 as he opted to take a voluntarily layoff for one week. The employer was going to have a reduced workforce during the week. Before the employer went to enforced layoffs under a seniority system, they gave employees the option to volunteer for a layoff. The claimant was not obligated to volunteer for the layoff, he chose to do so. The employer asked for volunteers for the layoff so they would not have to force anyone into a layoff situation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to and available for work.

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(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

Iowa Admin. Code r. 871-24.23(29) provides:

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

(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

The claimant was not forced to take a layoff. The claimant could have indicated he wanted to continue working. Instead the claimant chose not to work by opting for a voluntary layoff. Under these circumstances the claimant cannot be considered able to and available for work during the week in question and benefits must be denied.

DECISION:

The June 18, 2019, (reference 01) decision is affirmed. The claimant is not able to and available for work from May 19, 2019 through May 25, 2019. Benefits are denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs