

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DAKODA D BARNETT
Claimant

MARTINSON CONSTRUCTION COMPANY
Employer

APPEAL 20R-UI-12964-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/19/20
Claimant: Appellant (3)

Iowa Admin. Code r. 871-24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

On July 24, 2020, Dakota Barnett (claimant/appellant) filed an appeal from the July 22, 2020 (reference 02) unemployment insurance decision that denied benefits as of May 3, 2020 based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was set for September 11, 2020 at 1:30 PM. Claimant did not register a number for the hearing. As such, no hearing was held and a default order was entered.

Claimant appealed to the Employment Appeal Board (EAB). The EAB remanded for a new hearing. A telephone hearing was held on December 15, 2020. The parties were properly notified of the hearing. The claimant participated personally. Martinson Construction Company (employer/respondent) participated by VP Scott Martinson.

Official notice was taken of the administrative record.

ISSUES:

Is the claimant on an approved leave of absence?

FINDINGS OF FACT:

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

Claimant's first day of employment was August 9, 2016. Claimant is still employed by employer as a full-time foreman. Claimant requested and was granted a leave of absence beginning March 30, 2020. Claimant requested the leave of absence due to a lack of childcare. Specifically, claimant had to care for his young son because his daycare was closed due to the pandemic. Claimant returned to work full time on July 20, 2020. Claimant worked approximately two days between March 30 and July 20, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the July 22, 2020 (reference 02) unemployment insurance decision that denied benefits as of May 3, 2020 based on a finding claimant requested and was granted a leave of absence is MODIFIED in favor of respondent. Claimant is unavailable for work and therefore ineligible for benefits from March 30, 2020.

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.

Claimant requested and was granted a leave of absence beginning March 30, 2020 and continuing until July 20, 2020. In doing so, claimant made himself unavailable for work during this time. Claimant is therefore not eligible for benefits during this period.

While this decision denies regular, state benefits, the evidence indicates claimant may be eligible for federal Pandemic Unemployment Assistance (PUA). Further information on PUA, including how to apply, is set forth below.

DECISION:

The July 22, 2020 (reference 02) unemployment insurance decision that denied benefits as of May 3, 2020 based on a finding claimant requested and was granted a leave of absence is MODIFIED in favor of respondent. Claimant is unavailable for work and therefore ineligible for benefits from March 30, 2020.



Andrew B. Duffelmeyer
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515) 478-3528

December 22, 2020
Decision Dated and Mailed

abd/scn

Note to Claimant:

If you disagree with this decision, you may file an appeal with the Employment Appeal Board by following the instructions on the first page of this decision. If this decision denies benefits, you may be responsible for paying back benefits already received.

Individuals who are disqualified from or are otherwise ineligible for **regular** unemployment insurance benefits but who are unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.