

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BREANNE K VAN ROEKEL ROGERS
Claimant

MIDWEST INDUSTRIES INC
Employer

APPEAL 21A-UI-02959-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/29/19
Claimant: Appellant (2R)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence

STATEMENT OF THE CASE:

On January 15, 2021, the claimant, Breanne K. (Van Roekel) Rogers, filed an appeal from the January 5, 2021 (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant was on a leave of absence and was therefore unavailable for work effective November 1, 2020. The parties were properly notified of the hearing. A telephonic hearing was held on Friday, March 12, 2021. The claimant, Breanne K. (Van Roekel) Rogers, participated. The employer, Midwest Industries, Inc., participated through Jeff Ogren, Human Resource Manager. The administrative law judge took official notice of the administrative record.

ISSUE:

Was claimant Breanne K. (Van Roekel) Rogers on a leave of absence effective November 1, 2020?

Was claimant Breanne K. (Van Roekel) Rogers able to work and available for work effective November 1, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant has been employed full time as a production support employee with Midwest Industries, Inc., since October 30, 2017. Claimant remains employed with this employer.

On October 20, 2020, claimant notified the employer that she had been exposed to someone who tested positive for COVID-19. Claimant was sent home for the remainder of the workday that day and was placed on leave and instructed to quarantine. Claimant was away from work on October 21, October 22, October 23, and October 24, during this mandated leave of absence. During claimant's absence, she was quarantining and not experiencing any symptoms of COVID-19. She would have preferred to have been working.

Claimant returned to work on October 27, 2020.

Claimant received her paycheck after her week of mandated leave and realized at that point that her paid COVID leave had been exhausted previously and she did not get paid for the days she was away. Once she realized this, she reopened her claim for unemployment insurance benefits effective November 1, 2020. Claimant did not fill out a weekly continued claim for that week, as she was working.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was on a mandated leave of absence and able to work for the one week period ending October 24, 2020. Benefits are allowed, provided she is otherwise eligible. This matter will be remanded to determine whether her claim may be backdated.

The next issues are whether claimant was on a leave of absence and whether claimant was 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. 871-24.22(2)j 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.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

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.

For an unemployed individual to be eligible to receive benefits, she must be able to work and available for work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

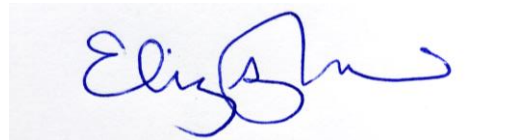
In this case, claimant has established she was able to and available for work. The employer, not claimant, initiated the leave of absence based upon the employer's policy. It was not based upon claimant's own personal illness or a medical professional directing claimant to be off work. Claimant was not voluntarily unemployed. Claimant is eligible for benefits, provided she meets all other requirements.

DECISION:

The January 5, 2021 (reference 02) unemployment insurance decision is reversed. Claimant is able to and available for work effective October 18, 2020, for the one week period ending October 24, 2020. Benefits are allowed, provided she is otherwise eligible.

REMAND:

The issues of whether claimant's claim may be backdated to October 18, 2020, and whether she is eligible for retroactive benefits for the one week period ending October 24, 2020 are remanded to the Benefits Bureau of Iowa Workforce Development for further investigation and determination.



Elizabeth A. Johnson
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March 16, 2021
Decision Dated and Mailed

lj/mh