

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CAROL S MADDUX
Claimant

FAWN MANUFACTURING INC
Employer

APPEAL 20A-UI-16137-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/23/20
Claimant: Appellant (2R)

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

STATEMENT OF THE CASE:

On December 1, 2020, the claimant filed an appeal from the November 23, 2020 (reference 01) unemployment insurance decision that denied benefits to the claimant based on a leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on February 1, 2021. Claimant participated personally. Bruce Scheitlin participated as a witness for the claimant. The employer, Fawn Manufacturing Inc., participated through witness Lane Henry. Claimant's Exhibits A through F were admitted. Employer's Exhibit 1 was admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUES:

Was the claimant able to and available for work?
Was 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 has worked for the employer since September 13, 1977. She permanently separated from employment in August of 2020. Claimant worked full time as a fork lift operator.

On January 30, 2020, the claimant began a voluntary leave of absence due to a personal medical condition she was suffering from. Claimant was not able to and available for work at that time. She recovered and was released to return to the workforce full time as of August 26, 2020 pursuant to her medical provider's orders. The only restriction her medical provider gave to her was that she needed to be able to work near a restroom in case she had side effects from medication.

Claimant had already been separated from employment by the time that the claimant was released to return to work without restrictions. Claimant has been able to and available for work since filing her original claim for unemployment insurance benefits effective August 23, 2020.

Whether the claimant's separation from employment is disqualifying will be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

REASONING AND CONCLUSIONS OF LAW:

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", subparagraph (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.

If a claimant is on a voluntary leave of absence from work, they are not considered able to and available for work for unemployment insurance benefits purposes. See Iowa Admin. Code r. 871-24.23(10). That is because the claimant has the burden to establish that they are able to and available for work. See Iowa Code § 96.4(3).

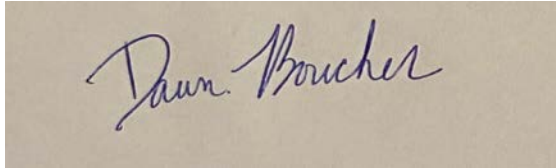
In this case, the claimant was released from her medical provider to return to work full-time effective August 26, 2020. As such, the claimant has established that she has been able to and available for work and was not on a leave of absence from work. Unemployment insurance benefits are allowed effective August 23, 2020, provided the claimant remains otherwise eligible.

DECISION:

The November 23, 2020 (reference 01) unemployment insurance decision is reversed. The claimant was able to work and available for work effective August 23, 2020. Unemployment insurance benefits are allowed, provided the claimant remains otherwise eligible.

REMAND:

The separation from employment issue delineated in the findings of fact is remanded to the Benefits Bureau for an initial investigation and determination.

A rectangular area containing a handwritten signature in blue ink that reads "Dawn Boucher".

Dawn Boucher
Administrative Law Judge

February 16, 2021
Decision Dated and Mailed

db/scn