

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DAVID J BENDER
Claimant

A.M. COHRON & SON INC
Employer

APPEAL 19A-UI-06344-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/23/18
Claimant: Respondent (4)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The employer/appellant, A.M. Cohron & Son Inc., filed an appeal from the August 7, 2019 (reference 04) Iowa Workforce Development (“IWD”) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on September 4, 2019. The hearing was held as a joint hearing with 19A-UI-06343-JC-T. The claimant did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing. The employer participated through Kathy Sommers. Gerrie Anderson also participated. Employer Exhibit 1 was admitted. The administrative law judge took official notice of the administrative records including the fact-finding documents. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the claimant able to work and available for work effective July 21, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant opened his claim with an effective date of December 23, 2018, in response to a temporary layoff with the employer. He reopened his claim with an effective date of July 21, 2019 when the employer did not have work available to him. (He has since returned to work full-time effective August 5, 2019).

From February 2019 until July 10, 2019, the claimant was under medical care for a personal medical condition. The claimant was cleared by his doctor to return to work on July 11, 2019 and immediately contacted his former employer to return to work. He has no medical restrictions or other limitations to employment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was able and available for work from July 21, 2019 through August 4, 2019. Effective August 5, 2019 the claimant is no longer able and available for work due to full-time employment with this employer.

For an individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The claimant has the burden to show he is able to work, available for work, and earnestly and actively seeking work. The unemployment insurance rules require that an individual be physically and mentally able to work in some full time gainful employment, not necessarily in the individual's customary occupation, but a job which is engaged in by others as a means of livelihood. 871 IAC 24.22(1). The rules also provide that an individual is disqualified for being unavailable to work if an individual has a medical report stating the individual is unable to work. 871 IAC 24.23(6).

In this case, the evidence establishes the claimant was able to and available for work as defined by the unemployment insurance law. The claimant was released without restrictions to return to full-time employment effective July 11, 2019. He is allowed benefits from July 11, 2019 until August 4, 2019, provided he meets all other requirements. (At this time, there are no weekly continued claims on file for that period.)

Effective August 5, 2019:

Iowa Admin. Code r. 871-24.23(23) provides: Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work. (23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

Effective August 5, 2019, claimant is ineligible for unemployment because he is performing work full-time. (At this time, there are no weekly continued claims on file after August 5, 2019).

DECISION:

The August 7, 2019 (reference 04) initial decision is modified in favor of the appellant. The claimant was able and available for work from July 21, 2019 through August 4, 2019. Effective August 5, 2019 the claimant is no longer able and available for work due to full-time employment with this employer. Benefits are denied effective August 5, 2019.

Jennifer L. Beckman
Administrative Law Judge

Decision Dated and Mailed

jlb/scn