

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CODY M GODDEN**  
Claimant

**RAVELING INC**  
Employer

**APPEAL 21A-UI-06561-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/10/21  
Claimant: Appellant (4R)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions  
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Leave of Absence

**STATEMENT OF THE CASE:**

On March 4, 2021, Cody M. Godden (claimant) filed an appeal from the March 1, 2021, reference 01, unemployment insurance decision that denied benefits effective January 10, 2021, based upon the determination he was on an approved leave of absence with Raveling, Inc. (employer) and was not able to and available for work. After due notice was issued, a telephone hearing was held on May 11, 2021. The claimant participated personally. The employer did not respond to the hearing notice and did not participate. No exhibits were offered into the record.

**ISSUE:**

Was the claimant able to work, available for work, and actively and earnestly seeking work effective January 10, 2021?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed with the employer full-time as a Laborer beginning in November 2020. The claimant separated from employment on January 11, 2021. Whether the claimant's separation qualifies him for benefits has not yet been investigated or adjudicated by the Benefits Bureau.

The claimant was off work due to illness at the time he separated and filed his claim for unemployment insurance benefits. The claimant's doctor did not release him to return to work until February 3. The claimant has transportation to work, has made two job contacts each week, and has remained in the geographical area effective February 7, 2021.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant was not able to and available for work from January 10 through February 6, 2021. Benefits are denied.

The claimant is able to work, available for work, and actively and earnestly seeking work effective February 7, 2021. Benefits are allowed, provided he is otherwise eligible.

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 provides, in relevant part:

Benefits 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.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

...

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

Iowa Admin. Code r. 871-24.23 provides, in relevant part:

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

(1) An individual who is ill and presently not able to perform work due to illness.

...

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

An individual claiming benefits has the burden to prove that he is be able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22. The claimant was ill and under a doctor's care from January 10 through February 6, 2021. Accordingly, he is not eligible for unemployment insurance benefits during that time.

The claimant has established that he is able to work, available for work, and actively and earnestly seeking work effective February 7, 2021. Benefits are allowed, provided he is otherwise eligible.

Whether the claimant's separation from this employer qualifies him for benefits is remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decision to include both parties.

**DECISION:**

The March 1, 2021, reference 01, unemployment insurance decision is modified in favor of the appellant. The claimant was not able to work and available for work effective January 10 through February 6, 2021. Benefits are denied. The claimant is able to work, available for work, and actively and earnestly seeking work effective February 7, 2021. Benefits are allowed as of that date, provided the claimant is otherwise eligible.

**REMAND:**

Whether the claimant's separation from this employer qualifies him for benefits is remanded to the Benefits Bureau for a fact-finding interview and unemployment insurance decision to include both parties.



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Stephanie R. Callahan  
Administrative Law Judge

May 25, 2021

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Decision Dated and Mailed

src/kmj

*Note to Claimant:* This decision determines, in part, that you are not eligible for regular unemployment insurance benefits. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify 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 self-certify for PUA to determine your eligibility under the program.** Additional information on how to self-certify for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.