

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MELVIN K DREXEL
Claimant

APPEAL 21A-UI-23709-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WEST LIBERTY FOODS LLC
EMPLOYER

**OC: 09/12/21
Claimant: Appellant (2R)**

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

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the October 22, 2021 (reference 01) unemployment insurance decision that denied benefits finding that the claimant was not able to and available for work due to a voluntary leave of absence. After due notice was issued, a telephone hearing was held on December 15, 2021. The claimant participated personally. The employer did not participate. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUE:

Was the claimant able to work and available for work effective September 12, 2021?

FINDINGS OF FACT:

Having heard the testimony and having examined the evidence in the record, the administrative law judge finds: Claimant filed an original claim for unemployment insurance benefits effective September 12, 2021. Prior to his separation from employment, claimant had been ill and off of work for five days. He provided a doctor's note to the employer stating that he needed to be off of work due to his illness. He returned to work for one day and then was informed that he was discharged due to attendance. Claimant has been able to work and available for work for each of the weeks in which he filed weekly-continued claims for benefits beginning September 12, 2021.

The claimant permanently separated from this employer and no decision regarding the separation from employment has been issued by the Benefits Bureau of Iowa Workforce Development. The issue of whether the claimant's permanent separation from employment with this employer is disqualifying will be remanded to the Benefits Bureau for an initial investigation and determination.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

Iowa Code § 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 § 96.19, subsection 38, paragraph "b", subparagraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

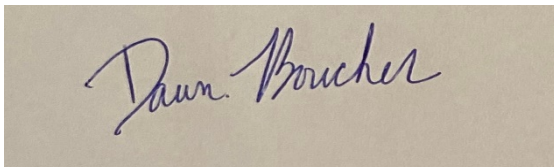
Claimant has credibly testified that he has been able to and available for work since September 12, 2021. As such, benefits are allowed effective his original claim date of September 12, 2021, provided he remains otherwise eligible.

DECISION:

The October 22, 2021 (reference 01) decision is reversed. The claimant has established he was able to and available for work effective September 12, 2021. Benefits are allowed effective September 12, 2021, provided the claimant remained otherwise eligible.

REMAND:

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

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

Dawn Boucher
Administrative Law Judge

December 27, 2021
Decision Dated and Mailed

db/db