

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CHARLES R DAVIS
Claimant

PRIME MECHANICAL INC
Employer

APPEAL 20A-UI-15000-S2-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/05/20
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Availability Disqualifications

STATEMENT OF THE CASE:

On November 11, 2020, the claimant filed an appeal from the November 2, 2020, (reference 02) unemployment insurance decision that denied benefits based upon a finding that claimant was on a leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on February 9, 2021. Claimant Charles R. Davis participated along with his witness Jon Lewis. Employer Prime Mechanical participated through president and owner Vicki Vlasek. Claimant's Exhibits A-E and Employer's Exhibits 1-3 were admitted into the record.

ISSUES:

Is the claimant able to and available for work?
Is the claimant on a voluntary leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on February 25, 2020. Claimant worked for employer as an apprentice full-time until his employment was terminated on October 14, 2020.

On April 2, 2020, claimant requested a leave of absence because he was around individuals on a daily basis who were at high-risk of contracting COVID-19. (Employer's Exhibit 1) The request was granted. On June 15, 2020, claimant contacted owner Greg Vlasek and left a voice message indicating he was no longer restricted due to COVID-19 reasons and was available for work. He did not receive a call back. A union representative was in communication with Mr. Vlasek beginning in August 2020 to determine whether work was available for claimant, but there was no work available. On October 14, 2020, claimant was laid off due to a lack of work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work between April 5, 2020 and June 13, 2020. Claimant is able to and available for work effective June 14, 2020.

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. 871-24.23(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.

Here, claimant was on a leave of absence due to COVID-19 fears between April 5 and June 13, 2020. Claimant has not established he is able to and available for work, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, claimant is not eligible for regular, state-funded unemployment insurance benefits between April 5 and June 13, 2020.

On June 15, 2020, Claimant was able to and available for work and notified employer that he was ready to return to work, but no work was available for him. He and the union representative remained in communication with employer during this time seeking work. Claimant had no restrictions on his ability or availability to work during this period. Benefits are allowed effective Jun 14, 2020, provided claimant is otherwise eligible.

DECISION:

The November 2, 2020, (reference 02) unemployment insurance decision is modified in favor of the appellant. The claimant was not able to and available for work effective April 5, 2020 through June 13, 2020, and regular, state-funded unemployment insurance benefits are denied for this period. Claimant is able to and available for work effective June 14, 2020. Benefits are allowed, provided claimant is otherwise eligible.



Stephanie Adkisson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

February 25, 2021
Decision Dated and Mailed

sa/scn

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**