

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

CAMY J CLEVERINGA
Claimant

VALLEY MACHINING CO
Employer

APPEAL NO. 14A-UI-12033-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/19/14
Claimant: Appellant (2)

Iowa Code § 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated November 10, 2014 reference 02, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on January 26, 2015. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

ISSUE:

The issue in this matter is whether claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: As claimant was the only participant in this hearing, all findings of fact are gleaned from claimant's testimony.

Claimant last worked for employer on October 17, 2014. On that date, she and other similarly situated employees were temporarily laid off by employer under the condition that they were still employed, and would be returned to their jobs according to seniority.

Since the date of her temporary layoff, claimant has, at all times been temporarily unemployed with her former employer. Claimant's employer requested that she not explore finding other jobs as it hoped to return all former workers to their jobs in short order. Claimant has followed the wishes of employer, who also had not contested the unemployment of any of the other workers similarly affected.

REASONING AND CONCLUSIONS OF LAW:

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 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. 871-24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status (lasting or expected to last more than seven consecutive calendar days without pay) initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

As the only reason that claimant has not pursued other jobs was because her current employer requested that she no do so while she is on layoff, claimant is considered to be able and available for work. Benefits shall be allowed effective October 19, 2014.

DECISION:

The decision of the representative dated November 10, 2014, reference 02 is reversed. Claimant is eligible to receive unemployment insurance benefits, effective October 19, 2014, provided claimant meets all other eligibility requirements.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/pjs