

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LYLE E. LOCHNER
Claimant

US POSTAL SERVICE
Employer

APPEAL 23A-UCFE-00043-CS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/26/23
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

On December 19, 2023, the claimant/appellant filed an appeal from the December 14, 2023, (reference 01) unemployment insurance decision that denied benefits based on claimant requesting and granted a leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on January 5, 2024. The hearing was held with appeal 23A-UCFE-00044-CS-T and combined into one record. Claimant participated. Employer did not call in to participate. Claimant's exhibits A, B, C and D were admitted into the record. Administrative notice was taken of claimant's unemployment insurance benefits records and also the Texas Workforce *Commission v. Wichita County*, No. 17-0130 (2018) case provided by claimant.

ISSUES:

- I. Is the claimant able to and available for work?
- II. Is the claimant on an approved 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 in June 1997. Claimant last worked as a full-time city letter carrier.

Claimant has suffered from PTSD and anxiety since his service in the Gulf War. Claimant's PTSD and anxiety increased due to issues at work. On February 23, 2023, claimant's medical provider put him on a six month leave of absence to improve his mental health. (Exhibit B). Claimant was restricted from performing any type of work. Claimant presented the restriction to the employer and went on a leave of absence from the employer.

On August 14, 2023, claimant's medical provider extended the medical restriction an additional six months. The provider specifically states: "Due to his ongoing condition, it is in his best interest to not continue to in any type of work environment." (Exhibit C). Claimant is still

employed with the employer. Claimant filed for unemployment benefits with an effective date of November 26, 2023.

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".

Iowa Admin. Code r. 871-24.22(1)a provides:

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.

(emphasis added).

Iowa Admin. Code r. 24.22(2) provides:

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.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

Iowa Admin. Code r. 871-24.23(6) and (10) provides:

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

(6) If an individual has a medical report on file submitted by a physician, stating such individual is not presently able to work.

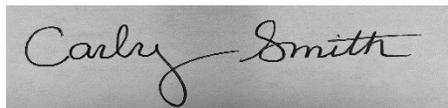
(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

The burden is on the claimant to establish that he is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22. The standard of being able to and available for work is independent of whether the injury is work-related or not. See *Geiken v. Luthern Home for the Aged*, 468 N.W.2d 223 (Iowa 1991)(finding harmless error in applying the voluntary quit standards).

On February 23, 2023, claimant was restricted from working by his medical provider for six months. Claimant took the medical restriction to his employer and went on a leave of absence from the employer. On August 14, 2023, claimant's medical provider extended the medical restriction for an additional six months and is currently on the leave of absence. Claimant's medical provider specifically restricted him from working in any work environment. Since claimant requested to go on a leave of absence he is deemed to be voluntarily unemployed. Additionally, claimant is not available for work under Iowa law because claimant has also been restricted from performing any type of work. As a result, claimant is deemed unavailable for work under Iowa Admin. Code r. 871-24.23(6) and (10). Benefits are denied.

DECISION:

The November 14, 2023, (reference 01) unemployment insurance decision is AFFIRMED. Claimant requested and was granted a leave of absence. Claimant is not available for work. Benefits are denied effective November 26, 2023, and continuing until the claimant establishes that he is able to and available for full-time work.

A rectangular box containing a handwritten signature in cursive script that reads "Carly Smith".

Carly Smith
Administrative Law Judge

January 10, 2024
Decision Dated and Mailed

CS/jkb

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.