

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**FRDERICK ROUTT**  
Claimant

**SWIFT PORK COMPANY**  
Employer

**APPEAL 21A-UI-09136-S2-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/07/20**  
**Claimant: Appellant (2R)**

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 March 25, 2021, the claimant filed an appeal from the March 23, 2021, (reference 01) 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 June 9, 2021. Claimant Frederick Routt participated. Employer Swift Pork Company did not register for the hearing and did not participate.

**ISSUES:**

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

**FINDINGS OF FACT:**

As claimant was the only witness, the administrative law judge makes the following findings of fact based solely upon claimant's evidence: Claimant began working for employer in February 2020. Claimant worked for employer as a full-time gam table.

On or around May 20, 2020, claimant became ill and was sent home. Claimant tested negative for COVID-19 but remained off work due to his illness. On or around June 4, 2020, employer sent claimant a letter notifying claimant he was placed on a leave of absence until July 24, 2020. The letter provided a phone number for claimant to call to schedule his return to work. Claimant contacted the number at least once or twice each week from the date he received the letter until July 24, 2020. He left voice messages each time he called but received no call back.

Claimant began feeling well enough to perform work around the time he received the letter. Claimant had no barriers to employment effective June 7, 2020.

There has been no initial investigation or decision regarding the issue of separation from employment.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective June 7, 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.

An individual claiming benefits has the burden of proof that he or she is able to work, available for work, and earnestly and actively seeking work. Iowa Admin. Code r. 871-24.22.

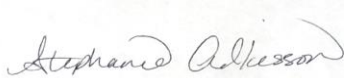
Claimant did not request a leave of absence from employer. Claimant was able to and available for work effective June 7, 2020 and, thus, is eligible for unemployment insurance benefits. Accordingly, benefits are allowed effective June 7, 2020, provided claimant is otherwise eligible.

**DECISION:**

The March 23, 2021, (reference 01) unemployment insurance decision is reversed. The claimant is available for work effective June 7, 2020, and regular, state-funded unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

**REMAND:**

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



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June 23, 2021  
Decision Dated and Mailed

sa/mh