

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TIMOTHY J CALDWELL
Claimant

NORDSTROM INC
Employer

APPEAL 21A-UI-14019-AR-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 03/14/21
Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

On June 14, 2021, the claimant, Timothy J. Caldwell, filed an appeal from the June 11, 2021, (reference 02) unemployment insurance decision that denied benefits based on the determination that claimant was on an approved leave of absence from employment with the employer, Nordstrom, Inc. The parties were properly notified about the hearing. A telephone hearing was held on August 5, 2021. Claimant participated personally. The employer did not participate. Claimant's Exhibits A and B were admitted. The administrative law judge took official notice of the administrative record.

ISSUES:

Is the claimant able to and available for work?
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 has been employed full time as a warehouse associate since April 2013. He remains employed with the employer as of the date of his hearing.

When the COVID-19 pandemic began, claimant's doctor recommended that claimant stop working due to the risks posed by the pandemic. He remained on leave as of the time at which he applied for unemployment benefits in a second year. Beginning the week of May 16, 2021, claimant began returning to work. His doctor placed him on a gradual work return schedule that would eventually result in claimant returning to his full duties and shift.

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 effective March 14, 2021, but is able to and available for work beginning May 16, 2021.

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—24.23(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.

Claimant was on an approved leave of absence as directed by his physician as of March 14, 2021. His physician released him to return to work on a graduated schedule beginning the week of May 16, 2021. Claimant was not able to or available for work from March 14, 2021, through the week of May 9, 2021. Thereafter, he was able to and available for work as directed by his physician, and he had returned to work at a reduced schedule. Claimant is not eligible for benefits for the weeks of March 14, 2021, through May 9, 2021.

DECISION:

The June 11, 2021 (reference 02) unemployment insurance decision is modified in favor of the appellant. The claimant is not able to work and available for work effective March 14, 2021, through the week of May 9, 2021. Benefits are withheld for that period. Beginning the week of May 16, 2021, claimant was able to and available for work, and benefits are allowed thereafter, provided he is otherwise eligible.



Alexis D. Rowe
Administrative Law Judge

August 10, 2021
Decision Dated and Mailed

ar/kmj

NOTE TO CLAIMANT:

This decision determines you are not eligible for regular unemployment insurance benefits. 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. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed or continue to be unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.

ATTENTION:

On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>