

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WILMOT WILLIAMS
Claimant

JOHN DEERE COMPANY
Employer

APPEAL 20A-UI-10479-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/04/19
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

Wilmot Williams, the claimant/appellant, filed an appeal from the August 19, 2020, (reference 02) unemployment insurance decision that denied benefits based upon him not being able to and available for work from April 12, 2020 through August 1, 2020. The parties were properly notified of the hearing. A telephone hearing was held on October 15, 2020. Mr. Williams participated and testified. The employer did not participate.

ISSUE:

Is Mr. Williams able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: As of the date of the hearing, Mr. Williams was still employed by John Deere. In March 2020, the United States declared a public health emergency because of the COVID 19 pandemic. Mr. Williams was laid off from work by the employer in early April 2020 for three weeks due to the pandemic.

While he was laid off of work, Mr. Williams' brother tested positive for COVID-19. Mr. Williams' brother does not live with him but Mr. Williams had recently visited his brother so he self-quarantined for 14 days. Around the time Mr. Williams was to return to work, he injured his back. He saw a doctor for this non-work related injury and the doctor advised him to stay home from work for about three months. Mr. Williams listened to his doctor and did not return to work after the three week layoff. He stayed home for about three months. Mr. Williams' doctor released him to return work at the end of July 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that Mr. Williams was not able to work and available for work from April 12, 2020 through August 1, 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. 871-24.22(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.

Iowa Admin. Code r. 871-24.23(34) and (35) provide:

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

...

(34) Where the claimant is not able to work due to personal injury.

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

To be able to work, "[a]n 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." *Sierra v. Employment Appeal Board*, 508 N.W.2d 719, 721 (Iowa 1993); *Geiken v. Lutheran Home for the Aged*, 468 N.W.2d 223 (Iowa 1991); Iowa Admin. Code r. 871-24.22(1). "An evaluation of an individual's ability to work for the purposes of determining that individual's eligibility for unemployment benefits must necessarily take into consideration the economic and legal forces at work in the general labor market in which the individual resides." *Sierra* at 723. The court in *Gilmore v. Empl. Appeal Bd.*, 695 N.W.2d 44

(Iowa Ct. App. 2004) noted that "[i]nsofar as the Employment Security Law is not designed to provide health and disability insurance, only those employees who experience illness-induced separations that can fairly be attributed to the employer are properly eligible for unemployment benefits." *White v. Emp't Appeal Bd.*, 487 N.W.2d 342, 345 (Iowa 1992) (citing *Butts v. Iowa Dep't of Job Serv.*, 328 N.W.2d 515, 517 (Iowa 1983)).

In this case, Mr. Williams laid off of work by the employer for three weeks in early April. However, he self-quarantined for two of those three weeks due to being exposed to COVID-19. Mr. Williams was then injured off-of-the-job and was out of work for three months. Mr. Williams has not established that he was able to and available for work from April 12, 2020 until August 1, 2020, even under the United States Department of Labor's guidance to flexibly interpret this requirement. See Unemployment Insurance Program Letter No. 10-20. Therefore, Mr. Williams is not eligible for regular, state-funded unemployment insurance benefits April 12, 2020 through August 1, 2020.

Even though claimant is not eligible for regular unemployment insurance benefits under state law, the claimant may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed.

DECISION:

The August 19, 2020, (reference 02) unemployment insurance decision is affirmed. Mr. Williams is not able to work and available for work from April 12, 2020 through August 1, 2020. Regular, state-funded unemployment insurance benefits are denied. Mr. Williams may be eligible for Pandemic Unemployment Assistance.

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.**



Daniel Zeno
Administrative Law Judge

January 28, 2021
Decision Dated and Mailed

dz/scn