

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TAMMY J WALSH
Claimant

**JOHN DEERE CONSTRUCTION
EQUIPMENT**
Employer

APPEAL 22A-UI-02708-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/28/21
Claimant: Appellant (5)

Iowa Code section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

On January 7, 2022, Tammy Walsh (claimant/appellant) filed an appeal from the January 3, 2022 (reference 01) unemployment insurance decision that denied benefits as of November 28, 2021 based on a finding claimant requested and was granted a leave of absence and was therefore unavailable for work.

A telephone hearing was held on February 24, 2022. The parties were properly notified of the hearing. The claimant participated personally. John Deere Construction Equipment (employer/respondent) did not participate. Official notice was taken 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's first day of work with employer was November 1, 2004. She was employed there as a full-time fork-truck driver. The last day claimant worked on the job was November 5, 2020. Claimant requested and was granted a leave of absence beginning at that time. Claimant requested the leave of absence due to health issues. The leave of absence continued until November 10, 2021. Claimant met with employer around that time but was not allowed to return to her position because she was medically unable to do so. It is unclear whether employer has formally terminated claimant's employment. Claimant does not feel she can work in any position due to her medical issues and has not been searching for work as she seeks further medical treatment.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the January 3, 2022 (reference 01) unemployment insurance decision that denied benefits as of November 28, 2021 based on a finding claimant requested and was granted a leave of absence and was therefore unavailable for work is MODIFIED with no change in effect.

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".

Claimant was no longer on a formal leave of absence at the time she began filing the current claim. However, she remains ineligible for benefits after that time due to being unable to work, unavailable for work, and not earnestly and actively seeking work.

DECISION:

The January 3, 2022 (reference 01) unemployment insurance decision that denied benefits as of November 28, 2021 based on a finding claimant requested and was granted a leave of absence and was therefore unavailable for work is MODIFIED with no change in effect. Claimant is ineligible for benefits effective November 28, 2021.



Andrew B. Duffelmeyer
Administrative Law Judge
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March 8, 2022
Decision Dated and Mailed

abd/abd