

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHAWN W HYDE

Claimant

APPEAL 20A-UI-10118-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MASTERBRAND CABINETS INC

Employer

OC: 03/15/20

Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

The claimant/appellant, Shawn W. Hyde, filed an appeal from the August 18, 2020 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits and stated he was ineligible for benefits due to a requested leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on October 7, 2020. The claimant participated personally. The employer, Masterbrand Cabinets Inc., did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

Note to Claimant: To change your address of record, please call: 866-239-0843.

ISSUES:

Is the claimant able to work and available for work effective March 15, 2020?

Is the claimant voluntarily unemployed due to a requested leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began his employment April 16, 1997 and works as a full-time machine operator. He worked March 18, 2020 and then began a leave of absence. Claimant requested a leave of absence based upon his doctor’s advice because he is considered high-risk if exposed to COVID-19. Employer granted Claimant’s request for a leave of absence. Claimant was on a leave of absence from March 19, 2020 through April 29, 2020.

Claimant was released to return to work effective April 30, 2020. Claimant did not return to work on April 30, 2020 because employer closed for one week to clean and implement new COVID-

19 precautions. Claimant returned to work effective May 5, 2020 and has worked full-time without restrictions.

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. 871-24.23(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.

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.

(emphasis added).

For an unemployed individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). 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 administrative law judge recognizes claimant has filed his current claim due to hardship related to the COVID-19 pandemic. For the period of March 19, 2020 through April 29, 2020, employer had work available to claimant. However, claimant informed the employer he was unable to work due to being high risk if exposed to COVID-19. The employer agreed to allow claimant time off for that reason. The claimant is considered to be on a leave of absence and is not available for work, according to Iowa law. Therefore, the claimant is not eligible for regular, state-funded unemployment insurance benefits March 19-April 29, 2020.

Because work was not available to the claimant April 30, 2020- May 4, 2020, claimant is eligible for benefits during that week, provided he is otherwise eligible.

Effective May 5, 2020, claimant is ineligible for benefits as he returned to full-time employment and therefore, is not unemployed. See Iowa Admin. Code r. 871-24.23(23).

Note to Claimant: This decision denies benefits for the period of March 19-April 29, 2020. *If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of 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 currently 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>.

DECISION:

The August 18, 2020 (reference 01) initial decision is modified in favor of claimant/appellant.

For the period of March 19-April 29, 2020, claimant is ineligible for benefits because he requested and was approved for a leave of absence. Regular state-funded unemployment insurance benefits are denied for this period.

For the period of April 30-May 4, 2020, claimant did not request a leave of absence and was able to and available for full-time work. Benefits are allowed, provided the claimant is otherwise eligible.

Effective May 5, 2020, claimant is working full-time and not eligible for unemployment insurance benefits.



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

October 8, 2020
Decision Dated and Mailed

jlb/scn

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.

If you do not qualify for regular unemployment insurance benefits due to disqualifying separations 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.** More information about how to apply for PUA is available online at:

www.iowaworkforcedevelopment.gov/pua-information

If you have applied and have been approved for PUA benefits, this decision will not negatively affect your entitlement to PUA benefits.