

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**JARROD E DIERS**  
Claimant

**SWIFT PORK COMPANY**  
Employer

**APPEAL 21A-UI-05452-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/29/20**  
**Claimant: Appellant (2)**

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Iowa Code section 96.4(3) – Eligibility – Able to and Available for Work

**STATEMENT OF THE CASE:**

On February 11, 2021, Jarrod Diers (claimant/appellant) filed an appeal from the February 8, 2021 (reference 01) unemployment insurance decision that denied benefits as of November 29, 2020 based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was held on April 23, 2021. The parties were properly notified of the hearing. The claimant participated personally. Swift Pork Company (employer/respondent) did not register a number for the hearing and did not participate.

Claimant's exhibits 1-9 were admitted. 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 employment was January 29, 2020. The last day claimant worked on the job was November 16, 2020. Claimant was employed at that time as a full-time scale operator. Employer terminated claimant's employment effective December 21, 2020.

Claimant presented employer with a doctor's note with restrictions on November 17, 2020. Claimant was off of work continuing until November 29, 2020. Claimant requested that time off to attend various doctor's appointments. Claimant was willing to return to work at that time within his restrictions. However, employer was unable or unwilling to accommodate the restrictions at that time.

Claimant has been searching for work since he was notified of the termination of his employment. He recently began full-time employment elsewhere.

Claimant filed a claim for benefits each week from the benefit week ending December 5, 2020 through the benefit week ending April 17, 2021.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the February 8, 2021 (reference 01) unemployment insurance decision that denied benefits as of November 29, 2020 based on a finding claimant requested and was granted a leave of absence is REVERSED. Claimant is able to and available for work effective November 29, 2020 and therefore eligible for benefits, provided he otherwise meets all eligibility requirements.

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 did not request a leave of absence beginning on or after November 29, 2020. Claimant was unemployed from that date and continuing until his termination because employer held him out of work during that time. He was able to work, available for, and searching for work during each week filed after the date of termination and continuing until he recently secured full-time work elsewhere.

**DECISION:**

The February 8, 2021 (reference 01) unemployment insurance decision that denied benefits as of November 29, 2020 based on a finding claimant requested and was granted a leave of absence is REVERSED. Claimant is able to and available for work effective November 29, 2020 and therefore eligible for benefits, provided he otherwise meets all eligibility requirements.



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Andrew B. Duffelmeyer  
Administrative Law Judge

April 30, 2021  
Decision Dated and Mailed

abd/ol