

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

BRETT I GIBBS
Claimant

INFASTECH DECORAH LLC
Employer

APPEAL 21A-UI-01774-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/31/20
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
Iowa Code § 96.19(38) – Total and Partial Unemployment
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

Brett I Gibbs, the claimant/appellant, filed an appeal from the December 18, 2020, (reference 01) unemployment insurance decision that denied benefits as of October 11, 2020. The parties were properly notified about the hearing. A telephone hearing was held on February 24, 2021. Mr. Gibbs participated and testified. The employer participated through Alice Bjergum, human resources manager. Official notice was taken of the administrative record.

ISSUES:

Is Mr. Gibbs able to and available for work?
Is Mr. Gibbs on a voluntary leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Gibbs began working for the employer on November 7, 2012. He works as a full-time manufacturing cell setup operator.

In March 2020, the United States declared a public health emergency because of the COVID-19 pandemic. The employer's policy requires any employee who has been exposed to a person who has a confirmed positive COVID-19 test result to self-quarantine and not come to work for fourteen days.

In October 2020, Mr. Gibbs was exposed to someone who tested for COVID-19. Mr. Gibbs informed his employer. Per the employer's policy, Ms. Bjergum told Mr. Gibbs that he would have to self-quarantine for fourteen days. Mr. Gibbs self-quarantined from October 14, 2020 through October 28, 2020. He returned to work on October 29, 2020.

Mr. Gibbs did not request to be on a leave of absence. Mr. Gibbs was ready to go to work but was unable to do so because of the employer's requirement that he self-quarantine.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, this administrative law judge concludes that Mr. Gibbs is temporarily unemployed from October 14, 2020 through October 28, 2020 and this employer's account should not be charged.

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 Code § 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

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 Code section 96.7(2)a(2)(a) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

Mr. Gibbs is temporarily unemployed from his full-time job from October 14, 2020 through October 28, 2020 due to the COVID-19 public health emergency. He returned to his full-time job at his same wages and hours on October 28, 2020. Mr. Gibbs has no other base-period wages. Benefits are allowed as long as he is otherwise eligible.

Although the employer was not offering Mr. Gibbs the same employment at the time he was receiving benefits as in the base period contemplated at hire, no benefit charges shall be made to its account. This aligns with the Department's position to not charge employers for claims made by employees due to COVID-19 related unemployment.

DECISION:

The December 18, 2020, (reference 01) unemployment insurance decision is modified in favor of the appellant, Mr. Gibbs. Mr. Gibbs was temporarily unemployed from October 14, 2020 through October 28, 2020. Benefits are allowed during this time period, provided he is otherwise eligible. No charges shall be made to the employer's account.



Daniel Zeno
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March 4, 2021
Decision Dated and Mailed

dz/kmj