

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DEVIN E ANDERSON
Claimant

APPEAL NO. 21A-UI-02925-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ABC ELECTRICAL SERVICES LLC
Employer

OC: 12/01/19
Claimant: Respondent (2)

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

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated January 8, 2021 reference 02, which held claimant able and available for work. After due notice, a hearing was scheduled for and held on March 12, 2021. Claimant participated personally. Employer participated by Lee Cochran.

ISSUE:

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant works as a full time apprentice worker for employer. In order for claimant to improve his position within the company, claimant attends training programs offered throughout the year. Employer stated that they do not require claimant to attend these programs in order for claimant to keep his employment. Claimant agreed, but stated while employer does not require this, his union does.

During the week ending November 14, 2020 claimant asked for and was granted a leave such that claimant could attend training. Claimant stated that his significant other had Covid at or around this time. Although claimant was tested and did not have Covid at the beginning of the week, he only participated in the training through Zoom. Claimant then contracted Covid later in the week and was off work the next week, but did not apply for unemployment benefits during that period.

REASONING AND CONCLUSIONS OF LAW:

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 96.4(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".

The claimant requested and was granted a leave to further his education. Employer stated and claimant agreed that this education was not necessary for claimant to keep his job. Therefore, claimant's leave is not protected as it may be if employer had conditioned claimant's ongoing employment on claimant's attendance of the course. Benefits are withheld for the one week period ending November 14, 2020.

DECISION:

The decision of the representative dated January 8, 2021, reference 02 is reversed. Claimant is not eligible to receive unemployment insurance benefits for the one-week period ending November 14, 2020. Claimant is eligible for benefits after this period provided claimant meets all other eligibility requirements.



Blair A. Bennett
Administrative Law Judge

March 15, 2021
Decision Dated and Mailed

bab/mh