

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**RUSSELL W VAN ZANDT**  
Claimant

**CENTRAL IOWA READY MIX INC**  
Employer

**APPEAL 21A-UI-18576-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/23/21  
Claimant: Appellant (1)**

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, Russell W. Van Zandt, filed an appeal from the August 11, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits and stated she 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 November 1, 2021. The claimant participated personally. The employer, Central Iowa Ready Mix, stated at the time of hearing it was not protesting benefits and did not participate. 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.

**ISSUES:**

Was the claimant able to work and available for work effective May 23, 2021?  
Was 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 established his claim with an effective date of May 23, 2021. Claimant has performed work for this employer since April 2020. He is a full-time ready-mix driver.

Employer’s slow season is usually December to April, depending on weather. Employees are permitted to take a “voluntary layoff” if they choose. Claimant did not take a voluntary layoff and worked over the winter.

Claimant had a heart attack on February 14, 2021. He was under medical care for a period of time, but does not recall when he was released to return to work without restrictions. Claimant received short-term disability during this period as well. He does not recall if he was on a formal leave of absence, but employer was aware of his medical condition. Claimant resumed employment after being released by his doctor.



## REASONING AND CONCLUSIONS OF LAW:

The first issue before the administrative law judge is whether the employer's agreement not to contest a claim for unemployment insurance benefits insures that the claimant will receive unemployment benefits. It does not. The decision about whether a claimant receives or is denied unemployment insurance benefits is not up to the employer or the claimant, but is determined by Iowa Workforce Development applying the facts of the claimant's circumstances to the Unemployment Security Law as enacted by the state legislature. Whereupon the employer might agree not to contest a claim, that promise, in and of itself, does not guarantee that a claimant will receive unemployment insurance benefits, but only that the employer will not hinder any efforts on the part of the claimant to make a claim for unemployment benefits.

For the reasons that follow, the administrative law judge concludes the claimant is not able to and available for work effective May 23, 2021.

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 96.1A, subsection 38, paragraph "b", subparagraph (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 Admin. Code r. 871-24.23(35) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

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. 871-24.23(23) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.



(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

For an 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.

Here, the employer has work available for the claimant. However, the claimant informed the employer he was unable to work due to having a heart attack and being placed on medical restriction. The employer agreed to allow the claimant time off for that reason. Claimant resumed full-time work at a later, unknown date. 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.

**DECISION:**

The unemployment insurance decision dated August 11, 2021, (reference 01) is affirmed. The claimant is not able and available for work effective May 23, 2021. Regular unemployment insurance benefits funded by the state of Iowa are denied until such time the claimant is able to and available for work.



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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

November 17, 2021  
Decision Dated and Mailed

jlb/ol

**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. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed or continue to be 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>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.



**ATTENTION:** On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.

You may find information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>

Iowa Finance Authority also has additional resources at <https://www.iowafinance.com/about/covid-19-ifa-recovery-assistance/>