

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KONAH DAHN
Claimant

APPEAL 21R-UI-19387-JC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION
Employer

**OC: 01/17/21
Claimant: Appellant (4R)**

Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

STATEMENT OF THE CASE:

The claimant/appellant, Konah Dahn, filed an appeal from the March 16, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A first telephone hearing was scheduled for June 7, 2021. The claimant/appellant did not appear and the appeal was dismissed. (See Appeal 21A-08351-JC-T). The claimant/appellant requested reopening of the hearing record, and the Employment Appeal Board (EAB) remanded the matter for a new hearing.

After proper notice, a telephone hearing was conducted on October 25, 2021. The claimant participated. The employer, Whirlpool Corporation, participated through Colin Evers, Human Resources Operations Specialist. 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:

Is the claimant totally, partially, or temporarily unemployed?
Is the claimant able to and available for work?
Is the claimant still employed at the same hours and wages?
Is the employer’s account subject to charge?
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: Claimant has worked for employer since 2016 and is still employed as a plant utility worker at the Amana location. She earns \$20.95 per hour and works 40 hours per week.

Claimant established a claim for benefits effective January 17, 2021. She filed weekly continued claims for the period of January 17, 2021 and January 30, 2021. Employer sent

claimant home on January 18, 2021 by the employer because she presented symptoms that could have been related to COVID-19. Claimant was not advised to be off work due to illness or to self-quarantine by a medical professional. Claimant tested negative for COVID-19 but was directed to remain off work by the employer, on an unpaid leave of absence until January 28, 2021. Claimant returned to work January 28, 2021. Claimant would have worked if the employer would have allowed. Claimant worked 24.08 hours between January 28, 2020 and January 30, 2020 and resumed full-time work.

Claimant was then laid off for the period of March 10-March 20, 2021. Claimant worked part of the week for the week ending March 13, 2021 before her layoff began. Claimant did not perform any work for the week between March 14, 2021 and March 20, 2021.

Claimant was laid off again between April 5, 2021 and April 9, 2021. She earned no wages for the week ending April 10, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge modifies in favor of the claimant/appellant.

Iowa Code § 96.19(38)b provides:

As used in this chapter, unless the context clearly requires otherwise:

38. "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 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 the period of January 17, 2021 through January 30, 2021: Claimant in this case was able to and available for work. Employer, not claimant, initiated a leave of absence for claimant, based upon employer policy. It was not based upon claimant's diagnosis of COVID-19, or a medical professional directing claimant to be off work. Claimant was not voluntarily unemployed. For the week ending January 23, 2021, claimant was totally unemployed and allowed full-benefits,

provided she is otherwise eligible. For the week ending January 30, 2021, claimant was partially unemployed. Claimant is eligible for partial benefits, provided she meets all other requirements.

For the period of March 10 through March 20, 2021. Claimant was laid off due to a lack of work. For the week ending March 13, 2021, claimant was partially unemployed. Claimant is eligible for partial benefits, provided she meets all other requirements. For the week ending March 20, 2021, claimant was totally unemployed and allowed full-benefits, provided she is otherwise eligible

For the period of April 4, 2021 through April 10, 2021: Claimant was laid off due to a lack of work and earned no wages this week. For the week ending April 10, 2021, claimant was totally unemployed and allowed full-benefits, provided she is otherwise eligible.

The issue of whether the employer's account is subject to charges is remanded to the Benefits Bureau for investigation.

DECISION:

The March 16, 2021, (reference 01) initial decision is modified in favor of the claimant/appellant. For the weeks ending January 23, 2021, March 20, 2021, and April 10, 2021, claimant was totally unemployed by no fault of her own. Benefits are allowed, provided she is otherwise eligible.

For the weeks ending January 30, 2021 and March 13, 2021, claimant was partially unemployed. Partial benefits are allowed, provided she is otherwise eligible.

REMAND: The issue of whether the employer's account is subject to charges is remanded to the Benefits Bureau for investigation.



Jennifer L. Beckman
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November 8, 2021
Decision Dated and Mailed

jlb/scn