

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ELIZABETH C WARD

Claimant

APPEAL 19A-UI-03542-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION

Employer

OC: 03/31/19

Claimant: Appellant (1)

Iowa Code § 96.4(3) – Ability to and Availability for Work

Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the April 24, 2019, (reference 02) decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on May 16, 2019. Claimant participated. Employer did not participate. Official notice was taken of agency records. Claimant's Exhibit A was admitted into the record.

ISSUE:

Was the claimant able to and available for work effective March 31, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant worked full time from March 13, 2018 until February 21, 2019, when she stopped working due to non-work related medical issues. Claimant's doctor took her off work due to her medical issues from February 21, until March 18. Claimant returned to work on March 18, 2019 with a full release to return to work without work restrictions. The claimant worked her full normal work schedule on March 18 from 3:30 p.m. until midnight. Claimant did not return to work after March 18. The employer did not tell her not to return to work or cut her hours of work.

The claimant's last date actually worked was on March 18. Claimant filed a claim for benefits with an effective date of March 31, 2019. As of March 31, 2019 claimant had no medical restrictions that limited her ability to work.

Claimant has been separated from this employer. Claimant's separation from this employer was resolved in appeal number 19A-UI-03541-H2T which was heard at the same time as this case.

As of March 19, 2019 the claimant moved out of town to a location one and one-half hours away from this employer's worksite. At the time she had no car or transportation to get her to and from work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to and available for work effective March 31, 2019.

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 Admin. Code r. 871-24.23(4) provides:

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

(4) If the means of transportation by an individual was lost from the individual's residence to the area of the individual's usual employment, the individual will be deemed not to have met the availability requirements of the law. However, an individual shall not be disqualified for restricting employability to the area of usual employment. See subrule 24.24(7).

Iowa Admin. Code r. 871-24.23(25) provides:

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

(25) If the claimant is out of town for personal reasons for the major portion of the workweek and is not in the labor market.

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 physician and has not been released as being able to work.

The claimant was off work due to a non-work related medical condition until March 18, 2019 when she returned to work with a work release that allowed her to work without work restrictions. Claimant was medically able to work as of March 18 and did return to work after her leave of absence expired. However, effective March 19, the claimant was then out of town, one and one-half hours away from her place of employment. At the same time the claimant lost her means of transportation to get to and from work. Claimant is not considered able to and

available for work due to her being out of town where she worked since March 19 and having no means of transportation, As the claimant filed her claim with an effective date of March 31, 2019 she is not considered able to and available for work effective March 31, 2019. Accordingly, benefits are denied.

DECISION:

The April 24, 2019, (reference 02) decision is affirmed. The claimant is not able to work and available for work effective March 31, 2019.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs