

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**LOUDMIYAH AUGUSTIN**  
Claimant

**WHIRLPOOL CORPORATION**  
Employer

**APPEAL 21A-UI-05112-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/29/20**  
**Claimant: Appellant (1R)**

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 filed an appeal from the February 3, 2021 (reference 02) 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 April 19, 2021. The hearing was held together with Appeal 21A-DUA-01032-JC-T. The claimant participated personally. The employer, Whirlpool Corporation, did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

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 able to work and available for work effective December 13, 2020?  
Is 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 began work on March 11 and worked for this employer on a full-time basis on assembly until December 13, 2020 when she permanently separated from employment. The issue of whether claimant’s permanent separation is disqualifying has not yet been addressed by the Benefits Bureau.

Claimant last performed work before Thanksgiving. She was then on a leave of absence from November 30, 2020 until separation. Claimant was on a leave of absence because her childcare provider contracted COVID-19.

After separation, claimant has remained off work due to childcare issues. Her childcare provider moved to Florida. She has been attending school, and cannot find childcare to cover a third

shift as she worked for Whirlpool. Based upon claimant's current schooling schedule, she could not work third-shift at this time.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes as follows:

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. 871—24.23 Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(8) Where availability for work is unduly limited because of not having made adequate arrangements for child care.

For an unemployed individual to be eligible to receive benefits, she 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 she is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

The administrative law judge recognizes the claimant has filed her current claim due to hardship related to the COVID-19 pandemic. Claimant in this case was on a leave of absence from November 30, 2020 until her December 13, 2020 separation. Since separation, she has been unable to secure childcare. Claimant has not established she is able and available for work according to Iowa law. Regular state-funded benefits are denied.

The issue of claimant's permanent separation is remanded to the Benefits Bureau for an initial investigation and decision.

**DECISION:**

The February 3, 2021 (reference 02) initial decision is **AFFIRMED**. The claimant was not able to and available for full-time work effective December 13, 2020.

**REMAND:** The issue of claimant's permanent separation is remanded to the Benefits Bureau for an initial investigation and decision.



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Jennifer L. Beckman  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
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April 23, 2021  
Decision Dated and Mailed

jlb/kmj

*Note to Claimant:* This decision denies benefits. *If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of 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 currently 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>.

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