

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MINEL PETITHOMME
Claimant

WHIRLPOOL CORPORATION
Employer

APPEAL 19A-UI-10071-DB-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/17/19
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the December 19, 2019 (reference 02) unemployment insurance decision that found claimant was not eligible for unemployment benefits from November 17, 2019 through November 23, 2019 because he worked enough hours to be considered employed from November 17, 2019 through November 23, 2019. The parties were properly notified of the hearing. A telephone hearing was held on January 17, 2020. The claimant participated personally. The employer did not participate. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records.

ISSUE:

Was the claimant able to work and available for work from November 17, 2019 through November 23, 2019?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant's current benefit year has an effective date of November 17, 2019. Claimant began working for this employer as a full-time plant utility worker on January 31, 2019 and still continues to be employed there to date. The plant was shut down for the Thanksgiving holiday from November 24, 2019 through November 30, 2019. Claimant was employed for his normal full-time hours during the week of November 17, 2019 through November 23, 2019. He filed a weekly-continued claim for benefits for that week even though he was working full-time. He did not file another weekly-continued claim for the week-ending November 30, 2019 because he did not realize he needed to.

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 section 96.19, 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(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 the week of November 17, 2019 through November 23, 2019, claimant was employed full-time and is therefore not eligible for benefits for that one-week period because he was working to such a degree that removed him from the labor market. As such, benefits are denied for the week of November 17, 2019 through November 23, 2019.

DECISION:

The December 19, 2019 (reference 02) decision is affirmed. Claimant is not eligible for benefits from November 17, 2019 through November 23, 2019 because he was working to such a degree that removed him from the labor market.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/scn