

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KALANTINGA B BARARMNA-BOUKPESSI
Claimant

APPEAL 20A-UI-09933-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION
Employer

**OC: 11/24/19
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions
Iowa Admin. Code r. 871-24.23(10) – Able & Available – Leave of Absence

STATEMENT OF THE CASE:

On August 21, 2020, Kalantinga B. Bararmna-BoukpeSSI (claimant) filed an appeal from the August 12, 2020, reference 02, unemployment insurance decision that denied benefits effective June 14, 2020, based upon the determination she was not able to and available for work. After due notice was issued, a telephone hearing was held on October 2, 2020. The claimant participated personally. Whirlpool Corporation (employer) did not respond to the hearing notice and did not participate. Djenan (interpreter number 11925) from CTS Language Link provided French interpretation. No exhibits were offered into the record.

ISSUE:

Was the claimant able to and available for work effective June 14, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On December 1, 2016, the claimant began working for the employer full-time in Ceiling System Repair. In response to the COVID-19 pandemic, the employer had all employees sign a notice stating they would call before reporting to work if they had a fever or other potential symptoms.

The week of June 14, 2020, the claimant had a fever and headache. She contacted the employer as required. The employer then placed her on a leave of absence for the week. If the employer had allowed her to return to work, she would have returned.

The claimant also filed for benefits the week of August 9. The employer was closed for the week due to the derecho storm that caused damage in the city. The claimant remains employed by the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was able to work and available for work effective June 14, 2020. Benefits are allowed, provided she is otherwise eligible.

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 Code section 96.19(38) provides:

Definitions.

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.

In this case, the claimant was temporarily unemployed each week due to an emergency or the employer's lack of work for her. As a result, she is considered able to and available for work during the temporary layoffs. Benefits are allowed, provided she meets all other eligibility requirements.

DECISION:

The August 12, 2020, reference 02, unemployment insurance decision is reversed. The claimant was temporarily unemployed and considered able to work and available for work effective June 14, 2020. Benefits are allowed.



Stephanie R. Callahan
Administrative Law Judge

October 5, 2020
Decision Dated and Mailed

src/scn