

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RODOLFO H SALAZAR ALVARADO
Claimant

WHIRLPOOL CORPORATION
Employer

APPEAL 21A-UI-05072-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/09/20
Claimant: Appellant (4)

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:

Rodolfo H Salazar Alvarado, the claimant/appellant, filed an appeal from the February 4, 2021, (reference 01) unemployment insurance decision that denied benefits as of November 29, 2020. The parties were properly notified about the hearing. A telephone hearing was held on April 19, 2021. Mr. Salazar Alvarado participated and testified. The employer did not register and did not participate.

ISSUES:

Is Mr. Salazar Alvarado able to and available for work?
Is Mr. Salazar Alvarado on a leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Salazar Alvarado began working for the employer in 2013. He works as a full-time first class inspector.

In March 2020, the United States declared a public health emergency because of the COVID-19 pandemic. The employer required employees to self-certify that they did not have COVID-19 before they could enter the plant. If an employee had COVID-19 symptoms, the employee was not to enter the plant but instead contact the human resources office.

In early December 2020, Mr. Salazar Alvarado had COVID-19 symptoms. Mr. Salazar Alvarado followed the employer's rules and contacted the human resources office. The human resources office told Mr. Salazar Alvarado that he had to self-quarantine and was not allowed to be at work. Mr. Salazar Alvarado self-quarantined from December 2, 2020 through December 11, 2020. He was tested for COVID-19 and received a negative test result on December 8, 2020. Mr. Salazar Alvarado returned to work on December 14, 2020.

Beginning on March 1, 2021, the employer began laying off Mr. Salazar Alvarado on certain weeks due to lack of work. Mr. Salazar Alvarado was laid off the week of March 1-6, 2021 due

to lack of work. He took vacation leave for part of that week. Mr. Salazar Alvarado was laid off the weeks of March 22-17, 2021 and April 5-10, 2021 due to lack of work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that Mr. Salazar Alvarado is not available for work from December 2, 2020 through December 11, 2020 and he is able to and available for work the weeks of March 1-6, 2021, March 22-17, 2021 and April 5-10, 2021.

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 § 96.19(38) provides:

"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 Admin. Code r. 871-24.23(10) provide:

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 Code section 96.7(2)a(2)(a) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

(a) However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

In this case, Mr. Salazar Alvarado had COVID-19 symptoms and was not available for work from December 2, 2020 through December 11, 2020. Since Mr. Salazar Alvarado was not able to work during this time period, regular, state-funded unemployment insurance benefits are denied during this time period.

Mr. Salazar Alvarado was temporarily unemployed from his full-time job the weeks of March 1-6, 2021, March 22-17, 2021 and April 5-10, 2021 due to lack of work. He returned to his full-time job at his same wages and hours after each week. Mr. Salazar Alvarado has no other base-period wages. Benefits are allowed as long for these weeks as he is otherwise eligible.

Even though Mr. Salazar Alvarado is not eligible for regular unemployment insurance benefits under state law from December 2, 2020 through December 11, 2020, he may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136 during this time period. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive up to the \$600.00 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed.

DECISION:

The February 4, 2021, (reference 01) unemployment insurance decision is modified in favor of the appellant, Mr. Salazar Alvarado. Mr. Salazar Alvarado was temporarily unemployed the weeks of March 1-6, 2021, March 22-17, 2021 and April 5-10, 2021. Benefits are allowed for these weeks. Mr. Salazar Alvarado was not available for work from December 2, 2020 through December 11, 2020. Benefits are denied during this time period.



Daniel Zeno
Administrative Law Judge

April 22, 2021
Decision Dated and Mailed

dz/kmj

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law from December 2, 2020 through December 11, 2020. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>. **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**
- To check on a PUA application you have already submitted, please call 866-239-0843.