

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

RABBI R GHONDA

Claimant

APPEAL 21R-UI-04689-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION

Employer

OC: 12/15/19

Claimant: Appellant (2)

Iowa Code section 96.4(3) – Eligibility – Able to and Available for Work

STATEMENT OF THE CASE:

On October 26, 2020, Rabbi Ghonda (claimant/appellant) filed an appeal from the October 21, 2020 (reference 01) unemployment insurance decision that denied benefits as of May 24, 2020 based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was set for December 17, 2020 at 9:30 a.m. Claimant was not available at the number registered at the time of hearing. After waiting 15 minutes as a courtesy to claimant, the undersigned issued a default decision.

The default decision was appealed to the Employment Appeal Board (EAB). The EAB remanded for a new hearing. A telephone hearing was held on April 12, 2021. The parties were properly notified of the hearing. The claimant participated personally and with the assistance of a French-language interpreter. Whirlpool Corporation (employer/respondent) did not register a number for the hearing and did not participate.

Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to and available for work?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant's first day of employment was October 21, 2018. Claimant is still employed by employer as a full-time set-up operator.

Employer held claimant out of work during the weeks ending April 18, April 25, and May 2, 2020; May 30 and June 6, 2020; October 31 and November 7, 2020; March 6, 13, and 20, 2021; and April 11, 2021. Claimant was held out of work these weeks due to the pandemic. There was also

no work available during the week ending August 15, 2020 due to the derecho. Claimant was otherwise able to and available for work during these weeks.

Claimant filed a weekly claim for benefits in each of the weeks set forth above except for the week ending April 11, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the October 21, 2020 (reference 01) unemployment insurance decision that denied benefits as of May 24, 2020 based on a finding claimant requested and was granted a leave of absence is REVERSED. Claimant is eligible for benefits as set forth below.

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(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.

Claimant did not request a leave of absence. Employer held claimant out of work during the weeks ending April 18, April 25, and May 2, 2020; May 30 and June 6, 2020; October 31 and November 7, 2020; March 6, 13, and 20, 2021; and April 11, 2021. Claimant was held out of work these weeks due to the pandemic. There was also no work available during the week ending August 15, 2020 due to the derecho. Claimant was otherwise able to and available for work during these weeks.

Claimant is eligible for benefits during each of these weeks, provided he filed a weekly claim for benefits each of those weeks and otherwise meets all other eligibility requirements.

Because the department has determined not to charge employers for pandemic-related periods of unemployment, employer will not be charged for those weeks of unemployment which were due to the pandemic. Employer may be charged for the week of unemployment due to the derecho.

DECISION:

The October 21, 2020 (reference 01) unemployment insurance decision that denied benefits as of May 24, 2020 based on a finding claimant requested and was granted a leave of absence is REVERSED. Claimant is eligible for benefits as set forth above.



Andrew B. Duffelmeyer
Administrative Law Judge
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April 15, 2021
Decision Dated and Mailed

abd/kmj