

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

HORNELY M POMBO
Claimant

WHIRLPOOL CORPORATION
Employer

APPEAL 21A-UI-05624-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/20/20
Claimant: Appellant (4)

Iowa Code § 96.4-3 – Able and Available
871 IAC 24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

Hornely Pombo (claimant) appealed a representative's February 12, 2021, decision (reference 01) that concluded ineligibility to receive unemployment insurance benefits as of December 20, 2020, because a leave of absence was granted by Whirlpool Corporation (employer) at the claimant's request. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 27, 2021. The claimant participated personally through Interpreter Gemima. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

The claimant offered and Exhibit A was received into evidence. The administrative law judge took official notice of the administrative file.

ISSUE:

The issue is whether the claimant is available for work and whether the claimant was on an approved leave of absence.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on August 10, 2018, as a full-time assembler. The claimant was sick and on a leave of absence from approximately June 15, 2020, through July 6, 2020. When she returned to work on or about July 7, 2020, the employer terminated her.

The claimant started work in July 2020, at Chrisma. She was working for Chrisma under reduced hours in December 2020. The claimant filed for unemployment insurance benefits with an effective date of December 20, 2020. The claimant has worked in and has been paid wages for insured work equal to ten times her claimant's weekly benefit amount since working for the employer.

REASONING AND CONCLUSIONS OF LAW:

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 96.1A, subsection 37, paragraph "b", subparagraph (1), or temporarily unemployed as defined in section 96.1A, subsection 37, 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".

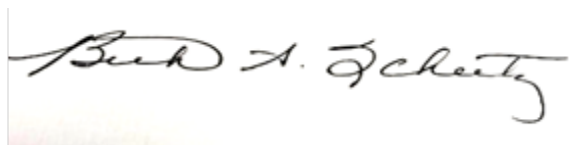
The claimant filed for unemployment insurance benefits with an effective date of December 20, 2020. The issue of whether she was able and available for work did not occur during the December 20, 2020, claim year. The issue of able and available is dismissed as moot.

The claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount since her separation from the employer. Benefits are allowed, provided the claimant is otherwise eligible.

DECISION:

The representative's February 12, 2021, decision (reference 01) is modified in favor of the appellant. The issue of able and available is dismissed as moot.

The claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount since her separation from the employer. Benefits are allowed, provided the claimant is otherwise eligible.



Beth A. Scheetz
Administrative Law Judge

April 30, 2021
Decision Dated and Mailed

bas/kmj