

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEFFREY D JUAREZ

Claimant

APPEAL 16A-UI-11411-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION

Employer

OC: 09/25/16

Claimant: Appellant (4)

Iowa Code § 96.4(3) – Ability to and Availability for Work

Iowa Admin. Code r. 871-24.22(2) – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

The claimant filed an appeal from the October 13, 2016, (reference 01) unemployment insurance decision that found claimant ineligible for benefits due to his unavailability for work. The parties were properly notified about the hearing. A telephone hearing was held on November 4, 2016. Claimant participated. Employer participated through human resource generalist Eric McGarvey.

ISSUE:

Is the claimant able to work and available for work effective September 25, 2016?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on May 25, 2016. Claimant last worked as an assembler. Claimant was separated from employment on September 29, 2016, when he was terminated.

Claimant's last day of work was September 21, 2016. He suffered a non-work related injury after working that day. Claimant properly reported the absence the next day, on September 22, 2016. Claimant saw a doctor who diagnosed him with back strain and wrote him a note releasing him to return to work on September 24, 2016. Claimant provided the note to employer.

By the evening of September 23, 2016, claimant's back still hurt and he was taking pain medication. Claimant felt he could not return to work the next day so he called human resource generalist John West and informed him of the circumstances. West explained claimant was not eligible for Family and Medical Leave Act (FMLA) leave, but encouraged him to apply for other types of leave. Claimant made inquiries, but learned he was not eligible for any other type of leave provided by employer. West informed claimant that since he had been released to return to work, he either needed to return to work or he would be terminated. Claimant did not return to work.

Claimant was able and available to return to work on October 14, 2016, but by then he had been informed by employer that his employment had been terminated.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is able to work and available for work effective October 16, 2016.

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that the individual is able to work, is available for work, and is earnestly and actively seeking work. Iowa Code § 96.4(3).

Claimant's last day of work was September 21, 2016. Claimant was physically unable to work until Friday, October 14, 2016. Claimant was physically able to return to work during the work week beginning October 16, 2016.

DECISION:

The October 13, 2016, (reference 01) unemployment insurance decision is modified in favor of appellant. The claimant is able to work and available for work effective October 16, 2016. Benefits are allowed, provided he is otherwise eligible.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
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Decision Dated and Mailed

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