

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JUL A TUTTLE**

Claimant

**WHIRLPOOL CORPORATION**

Employer

**APPEAL NO. 21A-UI-02601-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/24/19**

**Claimant: Appellant (1)**

Iowa Code § 96.6-2 – Timeliness of Appeal

Iowa Admin. Code ch. 871 r. 24.23(10) – Leave of Absence

Iowa Code § 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the December 22, 2020, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on March 9, 2021. The claimant did participate. Employer failed to respond to the hearing notice and did not participate.

**ISSUES:**

Whether the appeal is timely?

Whether claimant is able and available for work?

Whether claimant is on an approved leave of absence?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a timely appeal in this matter as the factfinder's decision was sent on December 22, 2020 and claimant filed an appeal on January 4, 2021. Ten days from the date of the decision would be January 1, 2021, a Friday. This is a legal holiday. Weekends do not count towards timely appeals. Therefore claimant filed a timely appeal on January 4, 2021.

Claimant is a full time assembler working steady hours for employer. In the middle of September, claimant came in contact with a person infected with Covid. Claimant informed employer of this contact. Under employer's policies, claimant was quarantined for a two week period from September 16-29, 2020. It was found that claimant was negative for Covid. Claimant wanted to be working throughout this period.

## REASONING AND CONCLUSIONS OF LAW:

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.

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. 871-24.22(1)a provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(1) Able to work. An individual must be physically and mentally able to work in some gainful employment, not necessarily in the individual's customary occupation, but which is engaged in by others as a means of livelihood.

a. Illness, injury or pregnancy. Each case is decided upon an individual basis, recognizing that various work opportunities present different physical requirements. A statement from a medical practitioner is considered prima facie evidence of the physical ability of the individual to perform the work required. A pregnant individual must meet the same criteria for determining ableness as do all other individuals.

Iowa Admin. Code r. 871-24.23(35) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(35) Where the claimant is not able to work and is under the care of a medical practitioner and has not been released as being able to work.

Under CDC guidelines in effect at the time of claimant's potential contact with an infected person, claimant was to be quarantined for a two-week time period. Employer did follow these guidelines and asked claimant to sit aside while it was determined she was not infected and

could not infect others. Although claimant wanted to work while potentially infected, she was not able and available to work while quarantining under guidelines.

Benefits are withheld for the period between September 16-29, 2020. Benefits shall be allowed effective September 30, 2020.

*Note to Claimant:* Even though claimant is not eligible for regular unemployment insurance benefits under state law, she may be eligible for federally funded unemployment insurance benefits under the Coronavirus Aid, Relief, and Economic Security Act ("Cares Act"), Public Law 116-136. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 50 weeks of unemployment benefits. **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

**DECISION:**

The December 22, 2020, reference 01, decision is affirmed. Although the appeal in this case was timely, the decision of the representative remains in effect.



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Blair A. Bennett  
Administrative Law Judge

March 11, 2021  
Decision Dated and Mailed

bab/lj