

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

DIANE F STAMMEYER
Claimant

WHIRLPOOL CORPORATION
Employer

APPEAL NO. 21A-UI-02645-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 11/24/19
Claimant: Appellant (1)**

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 a decision of a representative dated December 30, 2020 reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on March 9, 2021. Claimant participated personally. Employer failed to respond to the hearing notice and did not participate.

ISSUES:

Whether claimant is able and available for work?

Whether claimant is 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: Claimant works as a full time first class inspector for employer. Claimant became ill on September 22, 2020. Claimant had a fever and diarrhea. Claimant called in to employer to report her illness. Her symptoms were among those associated with Covid. Claimant was asked by employer to stay off from work through October 1, 2020. After a few days, claimant felt healthy enough to return to work, but under guidelines had to stay away until October 2, 2020.

Claimant did not ever have a Covid test.

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.

Under CDC guidelines in effect at the time of claimant's illness with a fever and diarrhea, claimant was to be quarantined for a two-week time period under Covid protocol. Employer did follow these guidelines and asked claimant to stay home while recovering from illness and to be sure she was not infectious with Covid. Claimant never did show employer that she was not positive for Covid. Although claimant wanted to work while potentially infected, she was not able and available to work while quarantining under guidelines.

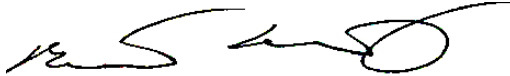
Benefits are withheld for the period between September 22-October 1, 2020. Benefits shall be allowed effective October 2, 2020.

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 decision of the representative dated December 30, 2020, reference 01 is affirmed. Claimant is not eligible to receive unemployment insurance benefits, for the period between September 22 and October 1, 2020. Claimant is eligible for benefits effective October 2, 2020, provided claimant meets all other eligibility requirements.



Blair A. Bennett
Administrative Law Judge

March 11, 2021
Decision Dated and Mailed

bab/scn