

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

KOKOU M KETOGLO
Claimant

WHIRLPOOL CORPORATION
Employer

APPEAL 21A-UI-02753-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence

STATEMENT OF THE CASE:

The claimant/appellant, Kokou Ketoglo, filed an appeal from the December 31, 2020 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits and stated she was ineligible for benefits due to a requested leave of absence. The parties were properly notified about the hearing. A telephone hearing was held on March 10, 2021. The claimant participated personally. The employer, Whirlpool Corporation., did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is the claimant able to work and available for work effective October 18, 2020?
Is the claimant voluntarily unemployed due to a requested leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began work for this employer in 2014 and works for this employer on a full-time basis as a tool and die specialist.

Claimant is required to attend certain classes by the employer to retain employment. On October 9, 2020, claimant notified employer that a fellow student had tested positive for COVID-19 in his class. The claimant himself had no symptoms and was not advised by a medical professional to self-quarantine. However, upon notifying the employer, the employer initiated a leave of absence per its internal policy. Claimant was not permitted to work October 9-19, 2020. Claimant was not compensated by the employer for this time off work.

On October 19, 2020, claimant's baby was born and he began a second leave of absence, for paternity leave. He was compensated by the employer and returned to work on November 16, 2020.

Claimant made no weekly continued claims from October 18, 2020 through November 16, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

For an unemployed individual to be eligible to receive benefits, he must be able to work, available for work, and actively seeking work as required by the unemployment insurance law. Iowa Code § 96.4(3). The burden is on the claimant to establish that he is able and available for work within the meaning of the statute. Iowa Code § 96.6(2); Iowa Admin. Code r. 871-24.22.

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 Admin. Code r. 24.22(2) provides:

Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

j. Leave of absence. A leave of absence negotiated *with the consent of both parties*, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

(1) If at the end of a period or term of negotiated leave of absence the employer fails to reemploy the employee-individual, the individual is considered laid off and eligible for benefits.

(2) If the employee-individual fails to return at the end of the leave of absence and subsequently becomes unemployed the individual is considered as having voluntarily quit and therefore is ineligible for benefits.

(3) The period or term of a leave of absence may be extended, but only if there is evidence that both parties have voluntarily agreed.

From October 9-19, 2020: Claimant was on a leave of absence initiated by the employer in response to an internal policy, and not due to illness or medical guidance. Claimant was not voluntarily unemployed during this period. Accordingly, benefits are allowed, provided he is otherwise eligible. (No claim is currently on file for this period.)

From October 20-November 16, 2020: Claimant was on a voluntarily leave and paid by the employer. He does not meet the eligibility requirements of being able and available and therefore would not be eligible for benefits during this period. (No claim is currently on file for this period.)

DECISION:

The December 31, 2020 (reference 02) initial decision is modified in favor of claimant/appellant: For October 9-19, 2020: Claimant was on an involuntary leave of absence. Accordingly, benefits are allowed, provided he is otherwise eligible. (No claim is currently on file for this period.) For October 20-November 16, 2020: Claimant was on a voluntarily leave absence. Benefits are denied for this period. (No claim is currently on file for this period.)



Jennifer L. Beckman
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

March 15, 2021
Decision Dated and Mailed

jlb/mh

Note to Claimant: This decision denies benefits. *If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.* If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **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>.

You may find additional information about food, housing, and other resources at <https://covidrecoveryiowa.org/> or at <https://dhs.iowa.gov/node/3250>