JANET MARK Claimant	**APPEAL 21A-UI-01376-DZ-T** **ADMINISTRATIVE LAW JUDGE** **DECISION**
WHIRLPOOL CORPORATION Employer	
	OC: 12/15/19 **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:

Janet Mark, the claimant/appellant, filed an appeal from the December 14, 2020, (reference 01) unemployment insurance decision that denied benefits as of October 4, 2020. The parties were properly notified about the hearing. A telephone hearing was held on February 17, 2020. Ms. Mark participated and testified. The employer did not participate.

ISSUES:

Is Ms. Mark able to and available for work?
Is Ms. Mark on a voluntary leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Mark began working for the employer on August 8, 2018. She works as a full-time worker.

In March 2020, the United States declared a public health emergency because of the COVID-19 pandemic. Ms. Mark was scared to go to work because of her concern about COVID-19. Ms. Mark requested and the employer agreed that she could take two weeks off of work beginning October 4, 2020. Ms. Mark did not attend work from October 4, 2020 through October 17, 2020. Ms. Mark returned to work on October 19, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, this administrative law judge concludes that Ms. Mark was on a leave of absence from October 4, 2020 through October 17, 2020.

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".

> four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

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.

Ms. Mark was concerned about COVID-19 so she asked her employer to be off of work for two weeks. The employer granted her request. It is understandable that Ms. Mark was concerned about the pandemic. However, when Ms. Mark took a two-week leave of absence she made herself unavailable for work. Since Ms. Mark was unavailable for work from October 4, 2020 through October 17, 2020, she is not eligible for benefits during this time period. Benefits are denied from October 4, 2020 through October 17, 2020.

DECISION:

The December 14, 2020, (reference 01) unemployment insurance decision is modified in favor of the appellant, Ms. Mark. Benefits are denied from October 4, 2020 through October 17, 2020 since Ms. Mark was unavailable during this time period.

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Daniel Zeno
Administrative Law Judge
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Iowa Workforce Development
1000 East Grand Avenue
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___March 1, 2021_____
Decision Dated and Mailed

dz/lj