

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

FRANCIS B MAYO
Claimant

APPEAL NO: 20A-UI-10061-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION
Employer

OC: 12/22/19
Claimant: Appellant (4)

871 IAC 24.23(10) – Leave of Absence
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the August 14, 2020, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 6, 2020. The claimant participated in the hearing with CTS Language Link Interpreter Boubacar (12283). The employer did not respond to the hearing notice and did not participate in the hearing.

ISSUE:

The issue is whether the claimant is able and available for work and whether she is on a leave of absence.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was off work because the company closed the weeks ending April 4, April 25, and May 2, 2020. He was off work due to illness the weeks ending May 23 and May 30, 2020. He was off work due to the derecho storm the week ending August 15, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was able and available for work the weeks ending April 4, April 25 and May 2, 2020, when the company was closed and was not able and available for work the two weeks ending May 30, 2020, and did take a leave of absence due to illness.

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. 871.24.23(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.

The company was closed the weeks ending April 4, April 25 and May 2, 2020. The claimant was able and available for work each of those weeks and is eligible for benefits for those three weeks. The claimant was on a leave of absence due to illness the two weeks ending May 30, 2020, and is not considered able and available for work while on a leave of absence. Therefore, benefits must be denied the two weeks ending May 30, 2020.

DECISION:

The August 14, 2020, reference 01, decision is modified in favor of the claimant. The claimant is able and available for work the weeks ending April 4, April 25 and May 2, 2020, when the employer was closed. He is not able and available for work and did take a leave of absence due to personal illness the two weeks ending May 30, 2020.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits for the two weeks ending May 30, 2020. 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>.



Julie Elder
Administrative Law Judge

October 13, 2020
Decision Dated and Mailed

je/scn