

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

AKOMEDI MOUSSA
Claimant

APPEAL 21A-UI-10351-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WHIRLPOOL CORPORATION
Employer

**OC: 02/28/21
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871—24.23(10) – Voluntary Leave of Absence

STATEMENT OF THE CASE:

On April 13, 2021, claimant, Akomedi Moussa, filed an appeal from the April 9, 2021, reference 01, unemployment insurance decision that denied benefits based upon the determination that claimant was on an approved leave of absence from employment with the employer, Whirlpool Corporation, as of February 28, 2021. The parties were properly notified about the hearing held by telephone on June 29, 2021. The claimant participated personally. The employer's representative was not available at the number provided at the beginning of the hearing, and did not call in while the record was open; the employer did not participate.

ISSUES:

Effective the week ending March 7, 2021, was the claimant able to and available for work?
Effective the week ending March 7, 2021, was the claimant on a voluntary leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began his employment as an inspector with the employer on June 20, 2017. Claimant still works for the employer.

Claimant was on a leave of absence from December 21, 2020, to February 28, 2021. This leave was FMLA protected, and claimant traveled to Africa during the leave. He was scheduled to return to work March 1, 2021, and he was able to return at that time. However, the employer's policy during the COVID-19 pandemic required that anyone returning from overseas travel quarantine for two weeks. The employer mandated that claimant quarantine away from work from March 1, 2021 through March 14, 2021. It initially scheduled him to return to work on March 15, 2021. On March 7, 2021, the plant employees were laid off until March 21, 2021. Claimant returned to work on March 22, 2021.

On April 5, 2021, the plant employees were laid off again until April 11, 2021. Claimant returned to work after this layoff period on April 12, 2021. Claimant was not paid for any of his periods of absence.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant was able to and available for work effective the week ending March 7, 2021. Benefits are allowed, provided claimant is otherwise eligible.

Iowa Code § 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.

Claimant was on a voluntary leave of absence until February 28, 2021. However, after that time, beginning March 1, 2021, he was on a mandatory leave of absence through March 14, 2021, though he was able to and available for work during the period from March 1 through 14, 2021. He was also not working, but able to and available for work from March 15, 2021 through March 21, 2021, and again from April 5 through 11, 2021. Because, beginning March 1, 2021, it was not the claimant's choice that he was not working, the administrative law judge concludes that claimant was able to and available for work effective the week ending March 7, 2021.

DECISION:

The April 9, 2021 (reference 01) unemployment insurance decision is reversed. Claimant was able to work and available for work effective the week ending March 7, 2021. Benefits are allowed, provided he is otherwise eligible.



Alexis D. Rowe
Administrative Law Judge

July 12, 2021
Decision Dated and Mailed

ar/mh