

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ANNY M MUSENGA
Claimant

WHIRLPOOL CORPORATION
Employer

APPEAL 21A-UI-04737-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/15/19
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

On February 4, 2021, Anny Musenga (claimant/appellant) filed an appeal from the January 27, 2021 (reference 03) unemployment insurance decision that denied benefits as of November 15, 202 based on a finding claimant requested and was granted a leave of absence.

A telephone hearing was held on April 12, 2021. The parties were properly notified of the hearing. The claimant participated personally. Her husband, Jean Musenga, participated as a witness for her. Whirlpool Corporation (employer/respondent) did not register a number for the hearing and did not participate.

Claimant's Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUES:

Is the claimant able to and available for work?

Is the claimant on an approved leave of absence?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Claimant's first day of employment was June 4, 2019. Claimant is still employed by employer as a full-time assembler. Claimant was not feeling well at work on November 15, 2020, and was sent home due to having COVID-like symptoms. Claimant was still not feeling well the following day and employer directed her to self-isolate until November 30, 2020. Claimant was not feeling too ill to work during this time and was available for work.

Claimant gave birth on November 30, 2020, and was on leave from that date until returning to work on March 22, 2021. Claimant has been back in her regular, full-time position since then.

Claimant filed a weekly claim for benefits during the weeks ending November 21 and 28, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the January 27, 2021 (reference 03) unemployment insurance decision that denied benefits as of November 15, 202 based on a finding claimant requested and was granted a leave of absence is REVERSED. Benefits are allowed as set forth below.

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.

Claimant did not request a leave of absence during the weeks ending November 21 and 28, 2020. Employer directed her to self-isolate during those weeks. Claimant was not feeling too ill to work during this time and was available for work. Claimant filed a weekly claim for benefits in each of those weeks. She is therefore eligible for benefits in those weeks.

Because claimant's unemployment was related to the pandemic and the department has determined not to charge employers for benefits paid during pandemic-related periods of unemployment, employer will not be charged for benefits paid during these weeks.

The administrative record shows claimant has not filed a weekly claim for benefits after the week ending November 28, 2020 and so her eligibility for benefits after that date need not be addressed.

DECISION:

The January 27, 2021 (reference 03) unemployment insurance decision that denied benefits as of November 15, 202 based on a finding claimant requested and was granted a leave of absence is REVERSED. Benefits are allowed as set forth above.



Andrew B. Duffelmeyer
Administrative Law Judge
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April 16, 2021
Decision Dated and Mailed

abd/ol