

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ROGER W BLINK
Claimant

WHIRLPOOL CORPORATION
Employer

APPEAL 21A-UI-02746-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/08/19
Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.22 – Able & Available - Benefits Eligibility Conditions

STATEMENT OF THE CASE:

On January 6, 2021, Roger W. Blink (claimant) filed an appeal from the December 30, 2020, reference 01, unemployment insurance decision that denied benefits effective October 25, 2020, based upon the determination he was ill and not able to and available for work. After due notice was issued, a telephone hearing was held on March 17, 2021. The claimant participated. The employer did not respond to the hearing notice and did not participate. No exhibits were offered into the record.

ISSUE:

Was the claimant able to work, available for work, and actively and earnestly seeking work the week ending October 31, 2020?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant began working for the employer in 2001. He filed a claim for unemployment insurance benefits effective December 8, 2019. On Friday, October 23, 2020, the claimant learned that he had been exposed to someone with COVID-19. Monday morning he notified his supervisor that he had been exposed and was directed to call Human Resources. Human Resources placed him on a 10-day leave. The claimant tested negative for COVID-19 on Wednesday; however, the employer would not allow him to return to work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was temporarily unemployed during the week ending October 31, 2020, and is considered able to and available for work during that time.

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". [Emphasis added.]

Iowa Code section 96.19(38)c provides:

Definitions.

38. Total and partial unemployment

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed 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.

The employer did not have any work available for the claimant due to a public emergency. The claimant was not sick and was able to and available for work; however, the employer did not have work for him. Benefits are allowed effective October 25, 2020.

DECISION:

The December 30, 2020, reference 01, unemployment insurance decision is reversed. The claimant was temporarily laid off and was considered able to work and available for work effective October 25, 2020. Benefits are allowed.



Stephanie R. Callahan
Administrative Law Judge

March 19, 2021
Decision Dated and Mailed

src/ol