

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**ELIZABETH A CLAYTON
PO BOX 123
TIFFIN IA 52340**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 04A-UI-05643-AT
OC: 04/25/04 R: 03
Claimant: Appellant (4)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Elizabeth A. Clayton filed a timely appeal from an unemployment insurance decision dated May 6, 2004, reference 01, which imposed an open-ended denial of benefits effective April 25, 2004 upon a finding that she was medically unable to work. After due notice was issued, a telephone hearing was held on June 8, 2004 with Ms. Clayton participating. Exhibit A was admitted into evidence on her behalf.

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Elizabeth A. Clayton filed a claim for unemployment

insurance benefits effective April 25, 2004. She was at the time under a doctor's care and had not been released to return to work. She was released to work on May 4, 2004. Although there have been some restrictions placed on her, she would still be able to work in telemarketing, an occupation in which she has experience.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the claimant is eligible to receive unemployment insurance benefits. The administrative law judge concludes that she is eligible as of May 2, 2004.

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".

The evidence in this record establishes that Ms. Clayton was released by her physician on May 4, 2004, a Tuesday. Since she was medically able to work for the majority of that workweek, benefits should be allowed beginning May 2, 2004.

DECISION:

The unemployment insurance decision dated May 6, 2004, reference 01, is modified. The claimant is ineligible for unemployment insurance benefits from April 25, 2004 through May 1, 2004. She is entitled to receive unemployment insurance benefits beginning May 2, 2004, provided she continues to meet all eligibility requirements.

kjf/b