

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

SALLY J KENDALL  
220 – 6<sup>TH</sup> AVE E  
ALBIA IA 52531

DELONG SPORTSWEAR INC  
PO BOX 189  
GRINNELL IA 501112 0189

Appeal Number: 05A-UI-03535-DWT  
OC: 06/13/04 R: 03  
Claimant: Appellant (2)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.4-3 – Ability to and Availability for Work

STATEMENT OF THE CASE:

Sally J. Kendall (claimant) appealed a representative's March 29, 2005 decision (reference 02) that concluded she was not able to or available to work during the majority of the week ending March 5. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 25, 2005. The claimant participated in the hearing. Gail Anderson, the plant manager, appeared on Delong Sportswear, Inc.'s (employer) behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant able to and available for work during the week of February 27, 2005?

FINDINGS OF FACT:

The claimant works for the employer. During the week of February 27, 2005, the employer did not have enough work for the claimant to work 40 hours. The claimant was scheduled to work eight hours on Monday, February 28, but she was ill and unable to work this day. The claimant worked as scheduled on March 1 and any other day the employer wanted her to work this week.

The claimant filed a claim for partial unemployment insurance benefits for the week ending March 5, 2005.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for unemployment insurance benefits, she must be able to and available for work. Iowa Code § 96.4-3. The law presumes a claimant is not available for work when she fails to work the major portion of the scheduled workweek for her regular employer. 871 IAC 24.23(29).

The facts show the claimant was ill one day she was scheduled to work during the week of February 27. The claimant, however, was able to and available for work every day that week with the exception of Monday. Under these facts, the claimant is able to and available for work during the week of February 27. The claimant is eligible to receive benefits for the week ending March 5, 2005.

DECISION:

The representative's March 29, 2005 decision (reference 02) is reversed. The claimant is able to and available to work the majority of the week ending March 5, 2005. Therefore, she is eligible to receive benefits for this week.

dlw/sc