

**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**

**DOCRELETTA D ARMSTRONG
719 – 9th AVE S LOWER APT
CLINTON IA 52732**

**EMPLOYER'S SERVICE BUREAU INC
PO BOX 294
CLINTON IA 52733-0294**

**Appeal Number: 04A-UI-08674-S2T
OC: 07/04/04 R: 04
Claimant: Appellant (1)**

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 – Able and Available

STATEMENT OF THE CASE:

Docreletta Armstrong (claimant) appealed a representative's August 2, 2004 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits based on her work with Employer's Service Bureau (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 2, 2004. The claimant participated personally. The employer participated by John Rausenberger, Superintendent.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from October 22, 2002 to the present. The claimant did not work on July 5, 6 or 7, 2004 because she had surgery. She returned to work on July 8 and 9, 2004. For the week ending July 10, 2004, the claimant worked two days. The claimant worked on July 11, 2004. On July 12, 2004, the claimant called the employer and said she could not work. She was not scheduled to work on July 13, 2004. The claimant worked on July 14, 15 and 16, 2004. For the week ending July 17, 2004, the claimant worked four days.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant was able and available for work. For the following reasons, the administrative law judge concludes she is not.

871 IAC 24.23(1), (7) provide:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

- (1) An individual who is ill and presently not able to perform work due to illness.
- (7) Where an individual devotes time and effort to becoming self-employed.

When an employee is ill and unable to perform work due to that illness, she is considered to be unavailable for work. The claimant requested time off from work on July 5, 6 and 7, 2004 due to illness. She is considered to be unavailable for work when she is ill. For the week ending July 17, 2004, the claimant was fully employed except for the one day she could not work. The claimant is disqualified from receiving unemployment insurance benefits for the two week period ending July 17, 2004 due to her unavailability for work.

DECISION:

The representative's August 2, 2004 decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits, because she is not available for work.

bas/tjc