

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

MIA J FIELDS
P O BOX 33
WESTGATE IA 50681

ALLIED INTERSTATE INC
c/o SHEAKLEY UNISERVICE
P O BOX 1160
COLUMBUS OH 43216-1160

DAVE NAGLE
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Appeal Number: 04A-UI-01805-HT
OC: 01/11/04 R: 03
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:

The claimant, Mia Fields, filed an appeal from a decision dated February 10, 2004, reference 02. The decision disqualified her from receiving unemployment insurance benefits. After due notice was issued, a hearing was held by telephone conference call on March 25, 2004. The claimant participated on her own behalf and with a witness, Carol Mullins-Fields. The claimant was represented by Attorney Dave Nagle. The employer, Allied Interstate, Inc. (Allied), participated by Director of Eastern Region Human Resources Patty Akin, Director of Western Region Human Resources Chris Van Lith and Human Resources Representative Louanne Kafer.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Mia Fields filed a claim for unemployment insurance benefits with an effective date of January 11, 2004. She was at that time under the care of her physician and was not released to return to work until February 1, 2004.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is able and available. The judge concludes she is not.

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".

871 IAC 24.23(1) provides:

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.

The claimant was under the care of her physician from November 26, 2003 until February 1, 2004. Under the provisions of the above Administrative Code section, she was not able and available for work during that period and is not eligible for benefits.

DECISION:

The representative's decision of February 10, 2004, reference 02, is affirmed. Mia Fields was not able and available for work and is ineligible for benefits from January 11 through January 31, 2004.

bgh/d