

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

REBECCA M LIEVING
87 COLGATE AVE
MAQUOKETA IA 52060

PREMIER OFFICE TECHNOLOGIES
c/o NOVIDEA HEALTHCARE
3601 W ALEXIS RD #113
TOLEDO OH 43623

Appeal Number: 04A-UI-06026-S2T
OC: 03/21/04 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:

Rebecca Lieving (claimant) appealed a representative's May 21, 2004 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was not able or available to work with Premier Office Technologies (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 23, 2004. The claimant participated personally. The employer did not provide a telephone number where it could be reached and, therefore, did not participate.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hospitalized from April 28 through 30, 2004. She was released to return to work without restriction on June 10, 2004.

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) 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.

When an employee is ill and unable to perform work due to that illness she is considered to be unavailable for work. The claimant was in the hospital from April 28 through 30, 2004. After she was released from the hospital, the claimant was recovering until June 10, 2004. She is considered to be unavailable for work after April 25, 2004. The claimant is disqualified from receiving unemployment insurance benefits beginning April 25, 2004, due to her unavailability for work.

DECISION:

The representative's May 21, 2004 decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she is not available for work with the employer.

bas/b