

**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**

**MELANIE D MCKAY  
949 SCHRICKER ST  
DAVENPORT IA 52804-4135**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**Appeal Number: 06A-UI-07335-HT  
OC: 06/18/06 R: 04  
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) – Able and Available

STATEMENT OF THE CASE:

The claimant, Melanie McKay, filed an appeal from a decision dated July 10, 2006, reference 02. The decision warned her to maintain eligibility for benefits because her report for the week ending July 1, 2006 indicated she was not able and available for work. After due notice was issued, a hearing was held by telephone conference call on August 10, 2006. The claimant participated on her own 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: Melanie McKay filed a claim for unemployment

benefits with an effective date of June 18, 2006. For the week ending July 1, 2006, she indicated she was not able and available for work, but this was due to "pressing the wrong button." She attempted to correct that error by hanging up and calling in again but the original answer was still recorded.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is able and available for unemployment benefits.

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 claimant's report that she was not able and available for work was an error. She made two job contacts that week and was able to work.

DECISION:

The representative's decision of July 10, 2006, reference 02, is reversed. Melanie McKay was able and available for work for the week ending July 1, 2006.

bgh/cs