

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

DECEMBER R DEBATTISTA
120 STATE ST
OSAGE IA 50461

COMPREHENSIVE SYSTEMS INC
1700 CLARK ST
PO BOX 457
CHARLES CITY IA 50616

Appeal Number: 06A-UI-00184-AT
OC: 11/27/05 R: 02
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, 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 – Eligibility for Benefits

STATEMENT OF THE CASE:

December R. DeBattista filed a timely appeal from an unemployment insurance decision dated January 3, 2006, reference 01, which denied benefits to her. After due notice was issued, a telephone hearing was held on January 24, 2006 with Ms. DeBattista participating. Personnel Director Sheryl Pringle and Supervisor Tammy Litterer participated for the employer, Comprehensive Systems, Inc.

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: December R. DeBattista is employed by Comprehensive Systems, Inc. The employer is not providing work for Ms. DeBattista because she is pregnant and has a lifting restriction. The company has a policy of not providing light-duty work to employees with restrictions which are not the result of a worker's compensation injury. Ms. DeBattista provided the employer with her restrictions on or about November 15, 2005. The employer allowed Ms. DeBattista to work with those restrictions until November 30, 2005. The company will not offer further employment to Ms. DeBattista until she can work with no restrictions.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that the claimant is eligible for unemployment insurance benefits. It does.

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 legal question is whether Ms. DeBattista is medically able to work. A provision of the Iowa Administrative Code provides that Ms. DeBattista need not establish that she can work at her regular job but at some job that exists in her local labor market. The employer provided the necessary evidence of that job. The employer witnesses acknowledged that they allowed Ms. DeBattista to work for 15 days after receiving her medical restrictions. Work was taken away from Ms. DeBattista because of company policy, not because of any further change in Ms. DeBattista's medical condition. Benefits are allowed.

DECISION:

The unemployment insurance decision dated January 3, 2006, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

kjf/tjc