

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

ERIN J MCCULLY
PO BOX 3092
EVANS DALE IA 50707

CONSOLIDATED MANAGEMENT
COMPANY
c/o ADP UC EXPRESS
PO BOX 66744
ST LOUIS MO 63166-6744

Appeal Number: 04A-UI-11094-AT
OC: 05-09-04 R: 03
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:

An appeal was filed on behalf of Erin J. McCully from an unemployment insurance decision dated October 6, 2004, reference 01, which denied benefits to her upon a finding that she was employed under the same conditions as when first hired. After reviewing the appeal letter, which was actually filed by the employer, and reviewing all matters of record, the administrative law judge concludes that no hearing is necessary.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: Erin J. McCully, an employee of Consolidated Management, did not work during the months of May, June, and July, 2004. She returned to work with her employer on August 23, 2004. She received

unemployment insurance benefits in the gross amount of \$591.34 for the period beginning May 9, 2004 and ending July 24, 2004.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Ms. McCully meets the eligibility requirement of being unemployed during the weeks in question. She 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 evidence in this record establishes that Ms. McCully performed no services and earned no wages between May 8, 2004 and July 24, 2004. Benefits are allowed for those weeks.

DECISION:

The unemployment insurance decision dated October 6, 2004, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits for the period May 9, 2004 through July 24, 2004, provided she is other eligible.

dj/kjf