

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

CURT W PEVE  
2410 TELEGRAPH RD  
DAVENPORT IA 52804

IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT

Appeal Number: 04A-UI-04766-CT  
OC: 03/21/04 R: 04  
Claimant: Appellant (4)

**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:

Curt Peve filed an appeal from a representative's decision dated April 13, 2004, reference 02, which denied benefits on a finding that he was unduly limiting his availability. The decision was amended by a decision dated April 29, 2004, reference 03, which denied benefits effective April 11, 2004 on a finding that Mr. Peve was not available for work because he was in the hospital. After due notice was issued, a hearing was held by telephone on May 20, 2004. Mr. Peve participated personally.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Peve was admitted to the hospital on April 11, 2004 because he suffered a stroke. He had several medical procedures performed and was released without restrictions on April 14, 2004.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Peve satisfied the availability requirements of Iowa Code Section 96.4(3) as of April 11, 2004. He was in the hospital four days that week but could have resumed work activity as of April 15. Because he was not available for work for the major portion of the workweek, he is not entitled to job insurance benefits for the week ending April 17, 2004. Inasmuch as he had been released without restrictions as of April 15, benefits are allowed as of the Sunday of the following week, April 18, 2004.

DECISION:

The representative's decision dated April 29, 2004, reference 03, which amended reference 02, is hereby modified. Mr. Peve is ineligible to receive job insurance benefits for the one week ending April 17, 2004 as he was not available for work. Benefits are allowed effective April 18, 2004, provided he satisfies all other conditions of eligibility.

cfc/kjf