

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

DOREEN E KIDD  
9201 HORSESHOE LAKE  
CEDAR RAPIDS IA 52411 8038

IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT

Appeal Number: 06A-UI-03840-DWT  
OC: 03/19/06 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, 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 – Ability to and Availability for Work

STATEMENT OF THE CASE:

Doreen E. Kidd (claimant) appealed a representative's March 28, 2006 decision (reference 02) that concluded she was not eligible to receive benefits for the week ending April 1, 2006, because she was out of state on a vacation and not available for work. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on April 25, 2006. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant eligible to receive unemployment insurance benefits during a week in which she is out-of-state on a vacation?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits during the week of March 19, 2006. The claimant made a minimum of two job contacts the week of April 1, 2006. When the claimant applied for a job, she left her cell phone number with the potential employer.

The claimant left Cedar Rapids on March 28. She drove 19 hours to get to Florida. The claimant returned to Iowa on April 3, 2006. The claimant had her cell phone turned on and would have driven back to Iowa if an employer would have called her and hired her to start immediately. No one called the claimant when she was in Florida. The claimant filed a claim for unemployment insurance benefits for the week ending April 1, 2006.

REASONING AND CONCLUSIONS OF LAW:

A week a claimant files a claim for benefits she must be able to and available for work. Iowa Code § 96.4-3. The law presumes a claimant is not available for work when she is out of town for personal reasons for the major portion of the workweek and is not in the labor market. 871 IAC 24.23(25). The facts establish the claimant was out of town for personal reasons for the major portion of the week ending April 1, 2006. The claimant, however, took the necessary steps to be available to work if an employer would have contacted her to report to work immediately. Under the facts of this case, the claimant is eligible to receive unemployment insurance benefits for the week ending April 1, 2006.

DECISION:

The representative's March 28, 2006 decision (reference 02) is reversed. Even though the claimant was out of town a majority of the week ending April 1, 2006, she took the necessary steps to be available for work if an employer had contacted her to work. Therefore, the claimant is eligible to receive unemployment insurance benefits for the week ending April 1, 2006.

dlw/tjc