

**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**

**SHEILA A TROXEL
936 HWY 69 N #4
FOREST CITY IA 50436**

**BILL'S FOREST CITY SUPERMARKET INC
305 HWY 69 N
FOREST CITY IA 50436**

**Appeal Number: 05A-UI-03473-CT
OC: 02/20/05 R: 02
Claimant: Appellant (4-R)**

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) – Able and Available

STATEMENT OF THE CASE:

Sheila Troxel filed an appeal from a representative's decision dated March 21, 2005, reference 01, which denied benefits effective February 20, 2005 on a finding that she was on a requested leave of absence. After due notice was issued, a hearing was held by telephone on April 21, 2005. Ms. Troxel participated personally. The employer participated by Mike Korth, Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Troxel began working for Bill's Forest City Supermarket,

Inc. in February of 2002 and last performed services on February 21, 2005. She was employed part-time, 20 to 22 hours each week, in the bakery. On or about February 21, she requested and was granted a leave of absence in order to undergo treatment.

Ms. Troxel was admitted to Prairie Ridge, a treatment facility, on February 22 and was released on March 11. She notified the employer on March 11 that she was ready to resume working and could return on March 22. On March 22, she was told that she could not return to work until further notice because of an incident that occurred while she was on leave. There was an allegation that she had removed a 24-pack of beer from the store on or about March 18 without making payment. Because of this incident, Ms. Troxel will not be allowed to return to work.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Troxel is eligible to receive job insurance benefits on her claim filed effective February 20, 2005. When she filed her claim, she was on a leave of absence that she requested. An individual is not eligible to receive job insurance benefits while on a requested leave of absence because the individual is voluntarily unemployed. See 871 IAC 24.22(2)j. Therefore, Ms. Troxel would not be considered available for work until she was ready to resume work. Her intent was to return to work on March 22. Therefore, she is not eligible to receive benefits until the beginning of that week, March 20, 2005.

Ms. Troxel has now been discharged from the employment. However, Workforce Development has not adjudicated her separation. Therefore, this matter shall be remanded to Claims for an investigation and determination regarding Ms. Troxel's separation from Bill's Forest City Supermarket, Inc.

DECISION:

The representative's decision dated March 21, 2005, reference 01, is hereby modified. Ms. Troxel was ineligible to receive job insurance benefits for the period from February 20 through March 19, 2005 as she was on a leave of absence. Benefits are allowed effective March 20, 2005, provided she satisfies all other conditions of eligibility. This matter is remanded to Claims for a determination regarding Ms. Troxel's separation from the employment.

cfc/sc