

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

LINDA J BOHENKAMP  
610½ AVE E  
FT MADISON IA 52627

HUMPHREY HOSPITALITY MANGT INC  
SUPERTEL HOSPITALITY MANGT  
PO BOX 1448  
NORFOLK NE 68702-1448

Appeal Number: 04A-UI-05463-DWT  
OC 04/04/04 R 04  
Claimant: Respondent (1)

**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 are 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 96.5-2-a - Discharge

STATEMENT OF THE CASE:

Humphrey Hospitality Management, Inc. (employer) appealed a representative's May 7, 2004 decision (reference 04) that concluded Linda J. Bohenkamp (claimant) was eligible to receive unemployment insurance benefits as of April 4 because she was able to and available to work for the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 27, 2004. The claimant participated in the hearing. The employer responded to the hearing notice but the employer's representative/witness was not available for the hearing.

The employer contacted the Appeals Section after the hearing had been closed and the claimant had been excused from the hearing. The employer made a request to reopen the hearing. Based on the employer's request to reopen the hearing, the evidence, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is there good cause to reopen the hearing?

Is the claimant able to and available for work as of April 4, 2004?

FINDINGS OF FACT:

The claimant started working for the employer on May 30, 2003. The claimant worked as a part-time housekeeper. She usually worked 20 to 30 hours a week.

The claimant established a claim for unemployment insurance benefits during the week of April 4 because the employer reduced the hours the claimant usually worked. The claimant was scheduled to work 12 to 15 hours instead of 20 to 30 hours a week. During the week of April 4, the employer called her on two days and told her she did not have to report to work as scheduled. During this week, the employer trained two new employees who worked more hours than the claimant.

Although the employer responded to the hearing notice by providing the name of the employer's witness and the phone number in which to contact the witness, the employer's representative/witness was not available at the time of the hearing. The employer's witness contacted the Appeals Section after the hearing had been closed and the claimant had been excused from the hearing.

The employer's witness was not available for the scheduled hearing because he forgot about the hearing. The witness had it in his mind that May 27 was Friday instead of Thursday, even though the hearing notice indicated the hearing would be held on Thursday, May 27.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c).

The employer's request to reopen the hearing is denied. Forgetting about a hearing is understandable, but it does not establish good cause to reopen the hearing.

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code §96.4-3. The facts establish the claimant was able and available to work 20 to 30 hours the week ending April 10 but did not because the employer did not have enough work for her to do.

DECISION:

The employer's request to reopen the hearing is denied. The representative's May 7, 2004 decision (reference 04) is affirmed. The claimant is able to and available for work during the week of April 4, 2004. Therefore, she is eligible to receive benefits as of April 4, 2004.

dlw/b