

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

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Appeal Number: 05A-UI-04654-L  
OC: 03-06-05 R: 04  
Claimant: Appellant (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, 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Iowa Code §96.4(3) - Able and Available

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the April 26, 2005, reference 03, decision that denied benefits. After due notice was issued, a hearing was held on June 20, 2005 in Dubuque, Iowa. Claimant did participate with Jennifer Manders and Sherry Flaherty and was represented by John Nemmers, Attorney at Law. Employer did participate through Sherry McDonnell and Michelle Brown. Employer's Exhibits 1 through 5 were admitted to the hearing record. Claimant's Exhibits A through D were admitted to the hearing record.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was unable to work due to being in the hospital from April 2 through April 9 for a work related injury on August 1, 2003. She is currently receiving temporary total disability benefits (TTD).

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not able to work and available for work for the one week ending April 9, 2005.

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".

Inasmuch as claimant was in the hospital she was unable to work. Benefits are withheld for that period.

## DECISION:

The representative's decision dated April 26, 2005, reference 03, is affirmed. The claimant is not able to work and available for work the one week ending April 9, 2005. Benefits are withheld for that period and claimant has made no further claims as she is receiving TTD.

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