

**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: 06A-UI-00841-S2T  
OC: 12/18/05 R: 01  
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, 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 96.5-10 – Authorization to Work in the United States  
Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant appealed a representative's decision dated January 13, 2006, reference 02, that concluded she was not eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 13, 2006. The claimant participated personally through Phung Nguyen, Interpreter. The employer participated by Steven Joyce, Human Resources Director. Exhibit D-1 was received into evidence.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: The claimant was asked to provide evidence that she was authorized to work in the United States. The claimant has not provided proof of citizenship or work registration.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is legally authorized to work in the United States. For the following reasons the administrative law judge concludes she is not.

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".

Iowa Code section 96.5-10 provides:

10. Aliens—disqualified. For services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for the purpose of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of the individual's alien status shall be made except upon a preponderance of the evidence.

When an employee fails to provide proof of citizenship or work registration, he is considered to be unavailable for work. The claimant has not provided evidence which would support a finding that she is authorized to work in the United States. She is considered to be unavailable for work. The claimant is disqualified from receiving unemployment insurance benefits until such time as she provides documentation to prove she is authorized to work in the United States.

DECISION:

The representative's January 13, 2006 decision (reference 02) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until such time as she provides documentation to prove she is authorized to work in the United States.

bas/pjs