

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

MARY L TILLMAN
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Appeal Number: 05A-UI-04012-DWT
OC: 03/13/05 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Ability to and Availability for Work

STATEMENT OF THE CASE:

Mary L. Tillman (claimant) appealed a representative's April 5, 2005 decision (reference 04) that concluded she was not eligible to receive unemployment insurance benefits because she was not able to work as of March 13, 2005. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 5, 2005. The claimant participated in the hearing with her attorney, Robert Andres. Larold Witt, the president, appeared on behalf of Cedar Valley Transport (employer). Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant able to work as of March 13, 2005?

FINDINGS OF FACT:

As of October 12, 2004, the claimant was off work as the result of a work-related injury. The claimant worked as a full-time semi-truck driver for the employer. The claimant is restricted from driving because of the medication she takes.

The claimant currently receives temporary total disability workers' compensation benefits. The claimant is looking for light-duty work because she is still restricted from using her upper extremities. The claimant is currently pursuing a desk job or work as a telemarketer. The claimant has experience as a telemarketer.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for unemployment insurance benefits, she must be able to and available for work. Iowa Code §96.4-3. While the claimant receives temporary total workers' compensation, she is not eligible to receive benefits because the receipt of these benefits presumes she is not able to work. The claimant is also currently looking for a tailor-made job because she is restricted to light-duty work. As of the date of March 13, 2005, the claimant is not eligible to receive unemployment insurance benefits. When the claimant no longer receives temporary total workers' compensation benefits, she can reopen her claim and must establish that she is able to and available for work.

DECISION:

The representative's April 5, 2005 decision (reference 04) is affirmed. As of March 13, 2005, the claimant is not eligible to receive unemployment insurance benefits because she is not able to work. The claimant remains ineligible until she reopens her claims and establishes that she is able to and available for work.

dlw/s