

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**BARBARA S TURNER**  
Claimant

**APPEAL NO. 11A-UI-01011-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LEXINGTON SQUARE LLC**  
Employer

**OC: 10/31/10  
Claimant: Respondent (4)**

Section 96.4-3 – Eligibility for Benefits

**STATEMENT OF THE CASE:**

Lexington Square, LLC filed a timely appeal from an unemployment insurance decision dated January 18, 2011, reference 02, that allowed benefits to Barbara S. Turner. After due notice was issued, a telephone hearing was held February 22, 2011 with Ms. Turner participating. Human Resources Coordinator Jean Davis and Activities Coordinator Shannon Humes participated for the employer. Employer Exhibit One was admitted into evidence.

**ISSUE:**

Is the claimant eligible to receive unemployment insurance benefits for the week ending November 6, 2010?

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Barbara S. Turner was employed as an activities aide by Lexington Square, LLC in the summer and fall of 2010. After last working for the employer on August 25, 2010, Ms. Turner had surgery in early September and was on a leave of absence. She contacted her supervisor, Activities Coordinator Shannon Humes, on approximately October 21, 2010. She advised Ms. Davis that her physician was releasing her to return to work effective November 1, 2010. Ms. Humes had already prepared the schedule for that week. Ms. Turner returned to employment on November 8, 2010. She received unemployment insurance benefits for the week ending November 6, 2010.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the claimant is entitled to receive unemployment insurance benefits for the week ending November 6, 2010. She is.

Iowa Code § 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".

The evidence in this record establishes that Ms. Turner notified the employer that she was released to return to work November 1, 2010. The employer had no work for her for the week ending November 6, 2010. Since Ms. Turner had been released by her physician and made herself available for employment from her regular employer, she meets the eligibility requirements to receive benefits for the week ending November 6, 2010.

**DECISION:**

The unemployment insurance decision dated January 18, 2011, reference 02, is modified. The claimant is entitled to receive unemployment insurance benefits for the week of October 31, 2010 through November 6, 2010.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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