

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

KIMBERLY TOLLIVER  
234 FRANKLIN AVE  
DES MOINES IA 50314

IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT

Appeal Number: 05A-UI-06687-DWT  
OC: 11/28/04 R: 02  
Claimant: Appellant (2)

**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 96.4-3 – Able to and Available for Work

STATEMENT OF THE CASE:

Kimberly Tolliver (claimant) appealed a representative's June 17, 2005 decision (reference 05) that concluded she was not eligible to receive benefits as of May 8, 2005, because she was not able to work for personal reasons. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on July 14, 2005. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, 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 and available for work as of May 8, 2005?

FINDINGS OF FACT:

The claimant established a claim for unemployment insurance benefits during the week of November 28, 2004. The claimant reopened her claim during the week of May 8, 2005.

The claimant was unable to work as a result of a medical issue May 8 through 11, 2005. The claimant was released to return to work on May 11, 2005. The claimant did not have any work restrictions as of May 11. Since May 11, the claimant has been looking for work in which she has experience.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code §96.4-3. The claimant established that as of May 11, 2005, she is able to work and available for work. Therefore, as of May 8, 2005, the claimant is eligible to receive benefits because she was able to and available for work during the majority of that week.

DECISION:

The representative's June 17, 2005 decision (reference 05) is reversed. As of May 8, 2005, the claimant is able to and available for work. Based on a decision for appeal 05A-UI-06685-DWT, the claimant is not qualified to receive benefits as of May 8, 2005.

dlw/kjw