

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

LATDA SOURAVONG
3 VICKI CIR
OTTUMWA IA 52501

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

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Appeal Number: 05A-UI-01784-AT
OC: 09-05-04 R: 03
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, 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 – Eligibility for Benefits

STATEMENT OF THE CASE:

Latda Souravong filed an appeal from an unemployment insurance decision dated January 28, 2005, reference 11, which held her ineligible for unemployment insurance benefits effective September 19, 2004 upon a finding that she was unable to perform work at that time. With the consent of the claimant and her attorney, a telephone hearing was held on February 23, 2005. Ms. Souravong participated, assisted by her husband, Tim Souravong. Joe Walsh, Attorney at Law, represented the claimant. Exhibit A was admitted into evidence.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: Latda Souravong is a packing house worker who has job skills transferable to light manufacturing as is found in and around Ottumwa, Iowa, the claimant's local labor market area. While there are no vacancies at the Excel plant at which Ms. Souravong last worked, there are jobs available in the bacon department and in the glove room which Ms. Souravong could perform and which would be consistent with medical restrictions imposed by her physician.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Ms. Souravong meets the eligibility requirement of being able to work. She does.

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".

The Iowa Administrative Code does not require that a claimant be medically able to work in his or her usual occupation or most recent occupation. It is sufficient that the individual have the job skills to perform some work which is currently available in the claimant's labor market area. The evidence establishes the existence of such work in Ms. Souravong's local labor market area. Therefore, she meets the eligibility requirement of being able to work.

DECISION:

The unemployment insurance decision dated January 28, 2005, reference 11, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

tjc/kjf