

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NANCI A GEIGER
Claimant

APPEAL NO. 11A-UI-08271-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 11/07/10
Claimant: Appellant (1)**

Section 96.4-3 – Eligibility for Benefits
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Nanci A. Geiger filed an appeal from an unemployment insurance decision dated February 11, 2011, reference 03, that denied benefits to her for the two weeks ending January 8, 2011. After due notice was issued, a telephone hearing was held July 6, 2011, with Ms. Geiger participating. Exhibit D-1 was admitted into evidence. The administrative law judge takes official notice of Agency benefit payment records. This matter is considered on a consolidated record with 11A-UI-8272-AT.

ISSUES:

Did the claimant file a timely appeal?

Is the claimant eligible for unemployment insurance benefits for the two weeks ending January 8, 2011?

FINDINGS OF FACT:

Nanci A. Geiger fell and broke her wrist on December 27, 2010. She underwent surgery to repair the damage. She was released to return to work on January 10, 2011. She received unemployment insurance benefits totaling \$436.00 for the two weeks ending January 8, 2011.

Ms. Geiger did not receive a fact-finding decision denying benefits for the two weeks ending January 8, 2011, that was mailed to her on February 11, 2011. She filed an appeal after receiving a decision dated June 21, 2011, that advised her that she must repay the benefits she received for the two weeks ending January 8, 2011.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether the appeal can be accepted as timely. It can.

The evidence establishes that the claimant did not learn of the decision denying benefits until she received the overpayment decision issued in June. Her timely appeal from that decision is sufficient to confer jurisdiction. See 871 IAC 24.35.

The remaining question is whether Ms. Geiger is eligible to receive unemployment insurance benefits for the two weeks ending January 8, 2011. 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".

The law requires that, with respect to each week that an individual requests unemployment insurance benefits, the individual must be medically able to work. The evidence establishes that for the two weeks in question Ms. Geiger was unable to work because of a broken wrist. Since she could not work, she was not eligible to receive unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated February 11, 2011, reference 03, is affirmed. The claimant is ineligible to receive unemployment insurance benefits for the two weeks ending January 8, 2011.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw