

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

SHEILA G MENES
1920 CAREY AVE
DAVENPORT IA 52803

KELLY SERVICES INC
999 W BIG BEAVER RD
TROY MI 48084-4716

Appeal Number: 06A-UI-00834-CT
OC: 03/27/05 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) – Able and Available

STATEMENT OF THE CASE:

Sheila Menes filed an appeal from a representative's decision dated January 12, 2006, reference 04, which denied benefits effective December 11, 2005, on a finding that she was not available for work. After due notice was issued, a hearing was held by telephone on February 7, 2006. The employer participated by Laurie Martin, City Manager. Ms. Menes submitted a letter, admitted as Exhibit A, in lieu of appearance.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Menes began working for Kelly Services on June 22, 2005. On September 27, 2005, she began working a part-time assignment with

American Honda. She was to work from 30 to 32 hours each week with work scheduled around her school schedule. Ms. Menes wanted more hours after her school semester ended, but none were available. There had been no assurances that she would receive more hours after classes ended. Ms. Menes filed an additional claim for job insurance benefits effective December 11, 2005.

Ms. Menes requested a leave of absence from work to travel out of the country. December 23, 2005, was her last day at work, and she resumed the assignment on January 13, 2006. She claimed job insurance benefits for the week ending December 24, 2005 and did not claim again until the week ending January 28, 2006.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Menes is eligible to receive benefits on her additional claim filed effective December 11, 2005. At that point, she was still working on her assignment with American Honda. During the first week of her additional claim, she worked 32.5 hours. She knew when she accepted the assignment in September that it was only part time. Inasmuch as she was working the number of hours for which she had been hired, Ms. Menes was not partially unemployed when she filed her additional claim. Where an individual is still employed in her part-time job under the same terms as hired and is not working on a reduced workweek basis, she is not considered available for work. See 871 IAC 24.23(26). Accordingly, Ms. Menes is not entitled to benefits for the two weeks she worked before leaving the country. She did not claim benefits while she was out of the country. Therefore, the administrative law judge need not address her availability during this period.

After considering all of the evidence, the administrative law judge concludes that Ms. Menes was not entitled to job insurance benefits from December 11, 2005 through January 14, 2006, as she was not available for work within the meaning of the law.

DECISION:

The representative's decision dated January 12, 2006, reference 04, is hereby affirmed. Ms. Menes is not entitled to job insurance benefits from December 11, 2005 through January 14, 2006, as she was not available for work within the meaning of the law. Benefits are allowed thereafter, provided she satisfies all other conditions of eligibility.

cfc/kjw