

**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**

**DOROTHY J KUEHNHOLD  
1515 MAPLE ST  
STORM LAKE IA 50588**

**GINGERBREAD HOUSE CHILD  
DEVELOPMENT CENTER INC  
PO BOX 161  
STORM LAKE IA 50588 0161**

**Appeal Number: 04A-UI-03961-H2T  
OC 02-29-04 R 01  
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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.4-3 - Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 24, 2004, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on April 3, 2004. The claimant did participate. The employer did participate through (representative) Dannelle Lovetinsky, Business Affairs Director; Katrina Bydo, Teacher Aid; and Pam Dahm, Teacher.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed as a teachers aid in the three year old day care room part-time beginning August 26, 2001 through February 27, 2004 when she asked to have her hours reduced or she was going to quit. On February 16, 2004, the claimant initiated a meeting with

Ms. Lovetinsky and told her that she wanted to quit her job because she wanted a less stressful physically demanding job. The claimant made it clear to Ms. Lovetinsky that she wanted to quit or reduce her hours. The claimant refused to continue working the hours that were available for her and were her regular shifts of approximately 25 to 30 hours per week. The employer replaced the claimant with another employee at the claimant's request. The employer offered to use the claimant as a substitute when they needed one. The only reason the claimant did not continue working her hours was because she did not want to. The claimant never provided the employer with a note from any physician that removed her from work. Continued work was available for the claimant had she not reduced her hours and asked to quit.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

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".

871 IAC 24.23(16) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

The only reason the claimant is not working is because she told Ms. Lovetinsky she wanted to quit and asked to have her hours reduced. The claimant has removed herself from the labor market by refusing to continue working. The claimant is not able to and available for work. Accordingly, benefits are denied.

#### DECISION:

The March 24, 2004, reference 01, decision is affirmed. The claimant is not able to work and available for work effective February 27, 2004. Benefits are denied.

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