

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

ASHLEY J SCHUTTE
507 STATE ST
DYSART IA 52224

CEDAR TERRACE LEARNING CENTER
2200 FALLS AVE
WATERLOO IA 50701

Appeal Number: 04A-UI-01447-CT
OC: 12/28/03 R: 03
Claimant: Respondent (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:

Cedar Terrace Learning Center filed an appeal from a representative's decision dated February 3, 2004, reference 01, which allowed benefits to Ashley Schutte. After due notice was issued, a hearing was held by telephone on March 2, 2004. The employer participated by Margaret Kauten, Director. Ms. Schutte did not respond to the notice of hearing.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Schutte began working for Cedar Terrace Learning Center on December 9, 2002 as a teacher's aide. She left work on October 31, 2003 to go on maternity leave. She advised the employer that she did not anticipate returning until approximately January 5, 2004.

On December 5, 2003, Ms. Schutte was released to return to work. Because the employer was not expecting her to return to full-time work at that point, the only work available was filling in for others. She worked on an as-need basis whenever work was available. The employer's business was closed for the holidays from December 24 until January 5. Ms. Schutte returned to work on January 5 and is currently working 32 hours each week.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Schutte is eligible for job insurance benefits during the period the employer's business was closed for the holidays. Although the employer was not expecting her to return to work from maternity leave until January 5, she was allowed to resume work activity on or about December 5 after being released by her doctor. The employer could have insisted that she take the full amount of maternity leave she had requested but did not do so. Therefore, Ms. Schutte was an active employee and not still on maternity leave when the business closed for the holiday. As such, she is entitled to job insurance benefits during the temporary shutdown.

DECISION:

The representative's decision dated February 3, 2004, reference 01, is hereby affirmed. Ms. Schutte is entitled to job insurance benefits on her claim filed effective December 28, 2003 as she was temporarily unemployed. Benefits are denied as of January 5, 2004 as she had returned to full-time employment.

cfc/kjf