

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TRACY L FINKEN
Claimant

APPEAL NO. 08A-UI-05994-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CDS GLOBAL INC
Employer

**OC: 06/08/08 R: 01
Claimant: Respondent (1)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

CDS Global, Inc. (CDS) filed an appeal from a representative's decision dated June 23, 2008, reference 01, which allowed benefits to Tracy Finken but denied the employer relief from charges. After due notice was issued, a hearing was held by telephone on July 15, 2008. The employer participated by Jill Murtaugh, Administrative Manager. Ms. Finken did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Ms. Finken has satisfied the availability requirements of the law since filing her claim effective June 8, 2008.

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. Finken began working for CDS on October 15, 2007 and is still employed by the company. She was initially employed as a workstation operator and worked full-time hours. She was hired as a temporary employee, but her job does not have a specific ending date. A temporary employee may become a regular employee if the employer has the need to fill a position on a permanent basis. There is no maximum amount of time an individual may remain employed as a temporary worker.

On March 1, 2008, Ms. Finken was switched to the phone center, where she worked full-time hours until on or about May 14. She and others suffered a reduction in hours at that time due to a decrease in mail and call volumes. Ms. Finken's hours began increasing on or about June 21.

Ms. Finken filed a claim for job insurance benefits effective June 8, 2008. The base period of her claim consists of all four calendar quarters of 2007.

REASONING AND CONCLUSIONS OF LAW:

Ms. Finken filed a claim for job insurance benefits effective June 8, 2008 because of a reduction in hours initiated by CDS on or about May 14, 2008. There is no evidence that Ms. Finken did

not continue to be available to work 40 hours each week after May 14. As such, she was available for work within the meaning of Iowa Code section 96.4(3) while she was on a reduced workweek. Accordingly, the decision allowing benefits to her was correct and shall be affirmed. She was attached to CDS in that she continued to work whatever hours were made available to her.

It is clear that CDS was not providing Ms. Finken with the same employment as of June 8, 2008 as it had provided during the base period of her claim. Because the reduced workweek was initiated by the employer and because Ms. Finken was not receiving the same employment as she did during the base period of her claim, the employer is not entitled to a relief from charges. See Iowa Code section 96.7(2)a(2).

DECISION:

The representative's decision dated June 23, 2008, reference 01, is hereby affirmed. Ms. Finken satisfied the availability requirements of the law at all times since filing her claim effective June 8, 2008. Benefits are allowed, provided she satisfies all other conditions of eligibility. The employer is not relieved of charges for benefits paid to Ms. Finken.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw