

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI	
ANDRIS V KIRSIS Claimant DES MOINES HEALTH CENTER INC Employer	APPEAL NO. 07A-UI-07894-S2T ADMINISTRATIVE LAW JUDGE DECISION OC: 07/01/07 R: 02 Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Andris Kirsis (claimant) appealed a representative's August 7, 2007 decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits because he was not available to work after his separation from employment with Des Moines Health Center (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 4, 2007. The claimant participated personally. The employer participated by Mike DeAnda, President and Chief Executive Officer.

ISSUE:

The issue is whether the claimant is available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from July 1, 2005, to June 29, 2007, as a full-time general dentist. The claimant ended his employment to work as a independent contractor for Beaver Avenue Dental until such time as he purchased the business. The claimant worked Mondays and Tuesdays from 8:00 a.m. to 5:00 p.m. with a one hour break. On Fridays he worked 8:00 a.m. to 2:00 p.m. The claimant kept these hours from July 9, 2007, until August 6, 2007. After August 6, 2007, he worked full-time hours in the business he is purchasing.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant was not available for work after July 8, 2007.

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(7) provides:

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

(7) Where an individual devotes time and effort to becoming self-employed.

When an employee is devoting time and effort to being self-employed, he is considered to be unavailable for work. The claimant was devoting his time and efforts to being self-employed and purchasing the business. He is considered to be unavailable for work after July 8, 2007. The claimant is disqualified from receiving unemployment insurance benefits beginning July 9, 2007, due to his unavailability for work.

DECISION:

The representative's August 7, 2007 decision (reference 02) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work with the employer.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css