

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BERTHA L JOHNSON
Claimant

APPEAL NO. 07A-UI-05366-CT

**ADMINISTRATIVE LAW JUDGE
NUNC PRO TUNC DECISION**

ACCESSIBLE MEDICAL STAFFING
Employer

**OC: 05/06/07 R: 02
Claimant: Respondent (2)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Accessible Medical Staffing filed an appeal from a representative's decision dated May 22, 2007, reference 01, which allowed benefits to Bertha Johnson but denied the employer relief from charges. After due notice was issued, a hearing was held by telephone on June 12, 2007. Ms. Johnson participated personally. The employer participated by Mindy Butler, Administrator. Exhibits One and Two were admitted on the employer's behalf.

ISSUES:

At issue in this matter is whether Ms. Johnson satisfies the availability requirements of the law. A secondary issue is whether the employer's account should be relieved of charges.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Johnson began working through Accessible Medical Staffing, a temporary placement firm, on January 19, 2006. She last performed services on April 30, 2007.

On April 10, 2007, Ms. Johnson began working for Child Serve, which was not an assignment through Accessible Medical Staffing. She works from 30 to 35 hours each week for Child Serve. She works split shifts starting at 7:30 a.m. until 7:30 or 9:30 p.m., Monday through Friday. She is only available to work elsewhere if it is an overnight shift. Ms. Johnson has had to decline at least three shifts with Accessible Medical Staffing because of conflicts with her other employment.

Ms. Johnson filed a claim for job insurance benefits effective May 6, 2007. She has received a total of \$274.00 in benefits since filing her claim.

REASONING AND CONCLUSIONS OF LAW:

The issue in this matter is whether Ms. Johnson satisfied the availability requirements of the law since filing her claim effective May 6, 2007. In order to receive job insurance benefits, an

individual must be able to and available for work. Iowa Code section 96.4(3). Ms. Johnson has been working for Child Serve since April 10, 2007 and works from 30 to 35 hours each week. Her work with Child Serve limits her availability to work for other employers. Where an individual's availability is limited because she is working to such a degree that she is no longer in the labor market, she is not considered available for work within the meaning of the law. See 871 IAC 24.23(23).

Because Ms. Johnson's availability is limited by her near full-time employment with Child Serve, she is not entitled to job insurance benefits. She has received \$274.00 in benefits since filing her claim. Workforce Development has already established an overpayment in the amount of \$274.00 in a decision dated May 31, 2007 (reference 09).

DECISION:

The representative's decision dated May 22, 2007, reference 01, is hereby reversed. Ms. Johnson did not satisfy the availability requirements of the law effective May 6, 2007. Benefits are withheld until such time as she establishes to Workforce Development that she satisfies the availability requirements of the law, provided she satisfies all other conditions of eligibility and is not otherwise disqualified from receiving benefits. Ms. Johnson has been overpaid \$274.00 in job insurance benefits. However, this amount has been set up on a separate issue, reference 09.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs/css