

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FRANCES L JOHNSON
Claimant

APPEAL NO. 10A-UI-06839-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY HEALTH SERVICES
Employer

OC: 03/28/10
Claimant: Respondent (1)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Mercy Health Services filed an appeal from a representative's decision dated April 28, 2010, reference 01, which allowed benefits to Frances Johnson but denied the employer relief from charges. After due notice was issued, a hearing was held by telephone on June 22, 2010. Ms. Johnson participated personally. The employer participated by Aimee Kern, Employee Relations Coordinator.

ISSUE:

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 benefit charges.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Johnson began working for Mercy Health Services on June 4, 2001. She was hired to work 16 hours per week as a home health aide. During the last 2.5 years, she worked 7.5 hours a day for five days a week. During this time, she worked exclusively for one client. In the fall of 2009, the employer reduced her to only working four days a week because other employees needed the hours. In January of 2010, Ms. Johnson was reduced to working only two days a week.

Ms. Johnson's last day of work was March 8, 2010. She was notified on March 10 that all hours were covered and that she would be called if her services were needed. When she did not receive any further hours, she filed a claim for job insurance benefits effective March 28, 2010. All of Ms. Johnson's base period wage credits were earned in full-time employment with Mercy Health Services. She remained available to work for the employer to the same extent as she accrued wage credits.

REASONING AND CONCLUSIONS OF LAW:

Ms. Johnson was hired to work part time. The employer may have hired her with the intent that she work on-call as needed. However, the employer did not utilize her as an on-call employee

during the last 2.5 years of her employment. She was assigned to and worked full time with one client during the 2.5 years. By providing her with full-time employment, the employer changed the terms and conditions of Ms. Johnson's employment. Although she remained available to work full-time hours, the employer stopped providing her with work. It must be concluded, therefore, that Ms. Johnson was working a reduced workweek when she filed her claim for job insurance benefits effective March 28, 2010. Because she remained available to work to the same extent as she accrued wage credits during the base period of her claim, she satisfied the availability requirements of Iowa Code section 96.4(3).

Ms. Johnson's reduced workweek was initiated by the employer. Because the employer was no longer providing her with the same amount of work as it did during the base period of her claim, the employer is not entitled to a relief from benefits charges.

DECISION:

The representative's decision dated April 28, 2010, reference 01, is hereby affirmed. Ms. Johnson is allowed job insurance benefits, provided she is otherwise eligible, effective March 28, 2010 as she satisfied the availability requirements of the law. The employer's account will be charged its pro rata share for benefits paid to Ms. Johnson.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs