

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRY L WILLIAMSON
Claimant

APPEAL NO. 07A-UI-09451-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOLDEN DREAM HOMECARE
Employer

OC: 09/02/07 R: 04
Claimant: Appellant (1)

Section 96.4-3 – Ability to and Availability for Work

STATEMENT OF THE CASE:

Terry L. Williamson (claimant) appealed a representative's October 3, 2007 decision (reference 01) that concluded she was not eligible to receive benefits as of September 2, 2007, because she unduly limited the hours she was available to work for Golden Dream Homecare (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 23, 2007. The claimant responded to the hearing notice. The claimant was not available for the hearing and a message was left for her to contact the Appeals Section immediately. Donna Albert, the owner, appeared on the employer's behalf.

At 12:20 p.m., the claimant contacted the Appeals Section for the 8:00 a.m. hearing. The claimant made a request to reopen the hearing. Based on the claimant's request to reopen the hearing, the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUES:

Is there good cause to reopen the hearing?

Is the claimant available for work as of September 2, 2007?

FINDINGS OF FACT:

When the employer hired the claimant, the employer explained that clients' needs change so the employer could not guarantee the claimant a specific shift to work. The employer hired the claimant to work in clients' homes. The claimant started working for the employer on April 28, 2007. Until July 22, 2007, the claimant generally worked third shift on Friday, Saturday, Sunday and Monday. A client then cancelled the third shift work the claimant had been performing.

Since July 22, 2007, the employer has offered the claimant first and second shift work. The claimant declined this work indicating her appointments prevented her from working these hours. The employer also offered the claimant third shift work during the weekend. Again, the claimant declined this work because of appointments or because she was taking care of her grandchild.

The claimant established a claim for unemployment insurance benefits during the week of September 2, 2007. Although the employer considers the claimant still eligible to work, the claimant has not accepted any work the employer offered her stating she was not available because of appointments or because she was taking care of her grandchild.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c).

The claimant knew about the scheduled hearing on October 23 at 8:00 a.m., but forgot about it. While the claimant intended to participate in the hearing, forgetting about the hearing does not amount to good cause to reopen the hearing. Therefore, the claimant's request to reopen the hearing is denied.

Each week a claimant files a claim for unemployment insurance benefits, she must be able to and available for work. Iowa Code § 96.4-3. When the claimant agreed to work for the employer, she agreed and understood she could be required to work various shifts. After July 22, 2007, the claimant informed the employer she was not available to work any shift even shifts she had previously worked. Under the facts of this case, the claimant is not willing to work any shift the employer has offered to her since July 22, 2007. As a result, the claimant has made herself unavailable to work and is not eligible to receive benefits as of September 2, 2007.

DECISION:

The claimant's request to reopen the hearing is denied. The representative's October 3, 2007 decision (reference 01) is affirmed. The evidence does not establish that the claimant has been available to work since she filed her claim for benefits. Therefore, as of September 2, 2007, the claimant is not eligible to receive unemployment insurance benefits.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css