

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TWILA R HAEFFNER
Claimant

APPEAL NO. 07A-UI-00871-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DONNELLSON HEALTH CENTER INC
Employer

OC: 12/03/06 R: 04
Claimant: Appellant (1)

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Twila Haeffner filed an appeal from a representative's decision dated January 23, 2007, reference 01, which held that she did not satisfy the availability requirements of the law. After due notice was issued, a hearing was held by telephone on February 8, 2007. Ms. Haeffner participated personally and Exhibit A was admitted on her behalf. The employer participated by Rebecca Wilson, Director of Nursing, and Melissa Haynes, Nursing Secretary.

ISSUE:

At issue in this matter is whether Ms. Haeffner satisfied the availability requirements of the law as of December 3, 2006.

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. Haeffner began working for Donnellson Health Center, Inc. on January 26, 1991 as a full-time certified nursing assistant (CNA). Approximately three years ago, she went to part-time status working 24 hours per week. She began working reduced hours in approximately July of 2006 due to low census at the facility.

Beginning in approximately July of 2006, Ms. Haeffner was writing her own schedule. She never turned down work when asked to work days other than when scheduled. Due to medical considerations, she is not able to perform all of the functions of a CNA. In August of 2006, her doctor limited her to working no more than four hours per day. Because she was not working as many hours as previously, Ms. Haeffner filed a claim for job insurance benefits effective December 3, 2006. She did not ask for additional hours or schedule herself for additional hours. Effective January 22, 2007, she began a medical leave of absence from work.

REASONING AND CONCLUSIONS OF LAW:

The issue presented by this appeal is whether Ms. Haeffner is able to and available for work within the meaning of Iowa Code section 96.4(3). The number of hours she works is, to some extent, controlled by the types of activities she is able to engage in due to her medical condition.

Because she wrote her own work schedule, Ms. Haeffner had some degree of control over the number of hours she worked. She was not told she could only schedule herself for a certain number of hours. Given the employer's frequent requests for her to work additional hours, she knew or should have known that more hours were available.

On the facts presented, the administrative law judge cannot conclude that the employer reduced Ms. Haeffner's workweek. Although there may have been periods of low census, this was not the sole reason Ms. Haeffner was receiving fewer hours. The administrative law judge concludes that she is not partially unemployed.

DECISION:

The representative's decision dated January 23, 2007, reference 01, is hereby affirmed. Ms. Haeffner did not satisfy the availability requirements of the law as of December 3, 2006 and is not partially unemployed. Benefits are denied.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/pjs