

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JANICE R SINN
1607 N PARK AVE
OSKALOOSA IA 52577-2464**

**DOUGLAS W MOORE DDS PC
1011 'A' AVE W
OSKALOOSA IA 52577**

**RANDY S DEGEEST
ATTORNEY AT LAW
219 – 1ST AVE E
PO BOX 326
OSKALOOSA IA 52577**

**Appeal Number: 06A-UI-05694-H2T
OC: 04-09-06 R: 03
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 - Able and Available

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 23, 2006, reference 02, decision that found the claimant not able to and available for benefits. After due notice was issued, a hearing was held on June 20, 2006. The claimant did participate. The employer did participate through Douglas W. Moore, DDS and Cindy DeGoey and was represented by Randy DeGeest, Attorney at Law.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired on April 7, 2003 and worked generally around 40 hours per week, Monday through Friday. Beginning in July 2005 the claimant asked to have her hours cut to two days per week. Her employer complied. In October 2005 the claimant again asked and was granted

a reduction in her hours to one day per week. The claimant was separated from this employer on April 5, 2006.

The claimant is currently seeking work at a job that would require she work two or at most three days per week. The claimant's base period is comprised mostly of full time wages. The claimant is not currently willing to work full time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

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(16) provides:

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

(16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

The majority of the claimant's wages were earned by working full time. The claimant is not willing to work any more than at most three days per week. The claimant is limiting the hours she will work, effectively removing her from the labor market where suitable work is available. Accordingly, benefits are denied.

DECISION:

The May 23, 2006, reference 02, decision is affirmed. The claimant is not able to work and available for work effective April 9, 2006. Benefits are denied.

tkh\kkf