

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

GLEND A D BROWN
722 N 2ND AVE E
NEWTON IA 50208

NART INC
NEWTON INN BEST WESTERN
2000 W 18TH ST S
NEWTON IA 50208-5616

Appeal Number: 05A-UI-04523-HT
OC: 03/27/05 R: 02
Claimant: Respondent (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 employer, NART, Inc., filed an appeal from a decision dated April 26, 2005, reference 01. The decision allowed benefits to the claimant, Glenda Brown. After due notice was issued a hearing was held by telephone conference call on May 23, 2005. The claimant participated on her own behalf. The employer participated by Manager Frank Sposito.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Glenda Brown began working for NART, Inc., in July 1991. She worked two days per week as a front desk clerk. In January 2005, NART, Inc.

was sold to a company named Maa Ambika. The new owners notified all employees there would be no change in their hours, duties or wages. However, almost immediately the claimant's hours were reduced and she worked only one day approximately every three weeks. She is still able to work the same schedule she did for the first 14 years of her employment.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is able and available. The judge concludes she is.

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".

The claimant worked two days per week for the first 14 years of her employment. In spite of being told there would be no change in hours by the new owners, her number of hours reduced drastically. She is still available to work the same schedule she had before the new ownership.

DECISION:

The representative's decision of April 26, 2005, reference 01, is affirmed. Glenda Brown is able and available for her regular work hours and is eligible to receive unemployment benefits.

bgh/sc