

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAKOTAH R GRISWOLD
Claimant

APPEAL NO: 10A-UI-01615-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARE INITIATIVES
Employer

OC: 12/06/09
Claimant: Respondent (2)

Section 96.4-3 – Able and Available
871 IAC 24.23(16) – Reduction of Hours

STATEMENT OF THE CASE:

The employer appealed a department decision dated January 21, 2010, reference 01, that held the claimant was eligible for benefits effective December 6, 2009, as she was still employed part-time and available for her regular hours. A telephone hearing was held on March 11, 2010. The claimant did not participate. Melody Roksek, Business Office Manager, Susan Schneider, Attorney, participated for the employer. Employer Exhibits One thru Two was received as evidence.

ISSUE:

Whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witness, and having considered the evidence in the record, finds: The claimant began part-time work in a job share arrangement with a co-worker on August 11, 2008. The claimant and her co-worker shared working 80 hours in a two-week period on an equal basis. In August of 2009, the claimant requested to be off work on Fridays that is a 4-hour shift. The employer questioned the co-worker about working additional hours, and when it could not be arranged, the employer suggested that a 3rd employee join the job share arrangement, and both parties agreed. After this period, the claimant requested additional time-off from work due to school conflicts and vacation. While the claimant is still employed part-time, she working a reduced schedule that is about half of what she had been working.

The claimant did not respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes that the claimant is not still employed on the same part-time basis as when hired, and is working significantly less than her regular hours when compared to her first year of employment. Benefits are denied.

DECISION:

The department decision dated January 21, 2010, reference 01, is reversed. Benefits are denied effective December 6, 2009.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs