

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTINA M THEULEN
Claimant

APPEAL NO. 08A-UI-00155-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALS CORNER OIL COMPANY
Employer

**OC: 12/02/07 R: 01
Claimant: Respondent (2)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Al's Corner Oil Company (employer) appealed a representative's December 28, 2007 decision (reference 02) that concluded Christina Theulen (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for January 22, 2008. The claimant participated personally. The employer participated by Cindy Tiefenthaler, Office Manager; Deb Ludwig, Supervisor; and Kelly Smidt, Operations Manager.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on November 26, 2006, as a part-time clerk. At the end of September 2007, the claimant asked the employer to reduce her hours because she took another job and wanted to work part-time for the employer. The employer complied. On or about November 26, 2007, the claimant lost her second job. She asked for other hours. The employer offered but the claimant was unable to work for the employer due to babysitting issues.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes the claimant is not qualified to receive unemployment insurance benefits because she is not available for work.

871 IAC 24.23(26) provides:

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

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant was hired as a part-time worker and is still working part-time for the employer. She asked that those part-time hours be changed so that she could take another part-time job. The change in hours was initiated by the claimant. She was still employed in a part-time position, as was agreed to at the time she was hired.

DECISION:

The representative's December 28, 2007 decision (reference 02) is reversed. The claimant is disqualified from receiving unemployment insurance benefits after November 24, 2007.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw