

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DOROTHY J TECH**  
Claimant

**APPEAL NO. 07A-UI-08189-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MONGOOSE INC – MCDONALD’S**  
Employer

**OC: 7/22/07 R: 01**  
**Claimant: Respondent (1)**

Section 96.4(3) – Able and Available  
Section 96.7(2)a(2) – Relief from Benefit Charges

**STATEMENT OF THE CASE:**

Mongoose, Inc. filed an appeal from a representative's decision dated August 24, 2007, reference 01, which allowed benefits to Dorothy Tech but denied the employer relief from charges. After due notice was issued, a hearing was held by telephone on October 10, 2007. Ms. Tech participated personally. The employer participated by Stephen Gossage, Owner.

**ISSUE:**

At issue in this matter is whether Ms. Tech satisfied the availability requirements of the law as of July 22, 2007.

**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. Tech began working for Mongoose, Inc., doing business as McDonald's, on August 13, 1999. She was hired to work as a crew person. She worked from 36 to 40 hours each week until she went on a medical leave of absence in March of 2007.

Ms. Tech returned to work in mid-May and presented a doctor's statement indicating she could only work four hours each day for five days a week. She presented the doctor's excuse to her manager. At the end of June, she presented another doctor's note indicating she would work six hours for each of five days a week. Ms. Tech was never scheduled for more than six to ten hours each week after her return from the leave of absence. She spoke to her manager about the problem but her hours were not increased. On August 13, she began a part-time job elsewhere and notified McDonald's that she was only available two days each week. After this point, she was scheduled to work five days each week but was no longer available to work five days due to her other employment. Ms. Tech discontinued claiming job insurance benefits after the week ending August 11, 2007.

**REASONING AND CONCLUSIONS OF LAW:**

Ms. Tech filed a claim for job insurance benefits effective July 22, 2007 because she was not getting a sufficient number of hours from McDonald's. She had notified the employer at the end of June that she was available to work at least 30 hours per week but was only getting from six to ten hours each week. The employer had ample opportunity to increase her hours after her return from the leave of absence in mid-May. The evidence failed to establish that she was offered more hours than she actually worked. She worked all hours for which she was scheduled and was available to work additional hours prior to August 13.

Because Ms. Tech continued to be available to work more hours for McDonald's, she satisfied the availability requirements of Iowa Code section 96.4(3) as of July 22, 2007 and continued to do so until the week ending August 11, 2007. As of the week beginning August 12, 2007, she no longer satisfied the availability requirements as she was working two jobs and no longer in the labor market. Ms. Tech did not claim any job insurance benefits after she started her second job.

The employer is not entitled to relief from benefit charges. The reduction in hours was at the employer's initiative as Ms. Tech was ready and willing to work additional hours. Since she was not given additional hours, the employer is not entitled to a relief from charges pursuant to Iowa Code section 96.7(2)a(2).

**DECISION:**

The representative's decision dated August 24, 2007, reference 01, is hereby affirmed. Ms. Tech satisfied the availability requirements of the law and is allowed benefits from July 22 through August 11, 2007, provided she satisfies all other conditions of eligibility. The employer's account will not be relieved of charges for benefits paid to Ms. Tech.

---

Carolyn F. Coleman  
Administrative Law Judge

---

Decision Dated and Mailed

cfc/css