

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

PATRICE A HOLTHAUS
1681 JASPER AVE
NEW HAMPTON IA 50659

ROSS MARKETING INC
1395 STAMY RD
HIAWATHA IA 52233

Appeal Number: 04A-UI-12619-CT
OC: 03/14/04 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:

Patrice Holthaus filed an appeal from a representative's decision dated November 16, 2004, reference 02, which denied benefits effective October 24, 2004 on a finding that she was not available for work. After due notice was issued, a hearing was held by telephone on December 16, 2004. Ms. Holthaus participated personally. The employer participated by Judy Matousek, Director of Human Resources.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: Ms. Holthaus has been employed by Ross Marketing, Inc.

since October 16, 2000. She was hired to work full time but, due to health reasons, went to part-time status as of January 26, 2004. Her part-time schedule was for 20 hours each week.

Ms. Holthaus usually worked from 8:00 a.m. until 1:00 p.m., Monday through Thursday. She worked her normal schedule on October 25 and 26. The center opened three hours late on October 27 and, therefore, Ms. Holthaus missed three hours from her normal schedule. She could have made up the hours by working after 1:00 p.m. but was unable to do so because of lack of childcare. The center was closed on October 28, the last day of Ms. Holthaus' workweek. However, there was work available the following weekend to perform "get-out-the-vote" calling on behalf of a political candidate. Ms. Holthaus was unable to work the weekend because of previous plans. She returned to her normal schedule on November 1 and has been working the same schedule since that time. Ms. Holthaus filed an additional claim for job insurance benefits effective October 24, 2004.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Holthaus is entitled to receive job insurance benefits on her additional claim filed effective October 24, 2004. She filed her claim because she did not work her usual number of hours the week ending October 30, 2004. It is true that eight hours of work were not available during the times she normally worked. However, she could have made up the hours by working later on October 27 and working some hours on the following weekend. She had personal reasons for not making up the hours. She did not have childcare on October 27 and had personal plans for the following weekend. Because Ms. Holthaus was not available to perform the work that was made available, she is not entitled to job insurance benefits. Accordingly, benefits are denied pursuant to Iowa Code section 96.4(3) effective October 24, 2004.

DECISION:

The representative's decision dated November 16, 2004, reference 02, is hereby affirmed. Ms. Holthaus was not available for work within the meaning of the law effective October 24, 2004. Benefits are denied until such time as she is again available for work, provided she satisfies all other conditions of eligibility.

cfc/b