

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

VICKI JOSUND
1825 – 27TH AVE S
CLINTON IA 52732

DATA DIMENSIONS CORP
P O BOX 1465
JANESVILLE WI 53547

Appeal Number: 04A-UI-02550-CT
OC: 01/18/04 R: 04
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:

Vicki Josund filed an appeal from a representative's decision dated February 25, 2004, reference 02, which denied benefits on a finding that she was still employed under the same terms and conditions as hired. After due notice was issued, a hearing was held by telephone on March 29, 2004. Ms. Josund participated personally. The employer participated by Jenny Swales, Human Resources Administrator. Exhibit One was admitted on the employer's behalf.

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. Josund began working for Data Dimensions Corporation on December 30, 2002 as a data entry operator. She was hired to work approximately 20 hours per week. On March 16, 2003, she went to full-time status and was working 40 hours per week. On May 25, she returned to part-time status. In August 2003, Ms. Josund began attending school on a full-time basis and, therefore, requested to go to on-call status. She knew there would be no guarantee of hours if she went to on-call status. She filed a claim for job insurance benefits effective January 18, 2004 because she was advised that the prospect for work hours did not look good.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Josund is available for work within the meaning of Iowa Code Section 96.4(3). She filed a claim for benefits because she was not getting many hours of work. However, she had voluntarily reduced her hours by going from part-time to on-call status knowing there would be no guarantee of hours. The fact that there may have been sufficient hours for on-call employees in the past does not alter the fact that the employer did not guarantee any minimum number of hours for on-call staff. Because the employer is still providing Ms. Josund with on-call work when such work is available, she is not entitled to job insurance benefits. See 871 IAC 24.23(26).

DECISION:

The representative's decision dated February 25, 2004, reference 02, is hereby affirmed. Ms. Josund is not eligible for job insurance benefits as she is still working under the same terms and conditions she voluntarily chose to work.

cfc/d