

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CARRIE A WEST**  
Claimant

**APPEAL NO. 08A-UI-08612-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CARE INITIATIVES**  
Employer

**OC: 07/06/08 R: 03**  
**Claimant: Appellant (2)**

Section 96.4-1 – Able and Available  
871 IAC 24.23(29) – Failure to Work in a Major Portion of a Scheduled Work Week

**STATEMENT OF THE CASE:**

Carrie West filed an appeal from a representative's decision dated September 18, 2008, reference 01, which denied benefits from July 6, 2008 through July 21, 2008. After due notice was issued, a hearing was held by telephone on October 13, 2008. Ms. West participated personally. Participating as witnesses for the claimant were Amanda Thede, Dietary Manager, and Dory Brennecke, Administrator. The employer by written statement elected not to participate.

**ISSUE:**

The issue in this matter is whether the claimant was available for the major portion of the work week.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant is employed as a dietary cook/aide for the captioned employer. Ms. West began her employment on January 3, 2008 and continues to be employed at the time of hearing. Ms. West works on a part-time basis. Her immediate supervisor is Amanda Thede. The claimant was unable to work the major portion of the work weeks between July 6 and July 21, 2008 due to a clerical error that had occurred administratively through no fault of the claimant. Because the Department of Human Services evaluation on the claimant's criminal history had not been completed, the claimant was not allowed to work when the Department of Human Services did an inspection of the employer's facility. When the clerical error was completed on or about July 21, 2008, the claimant was allowed to return to her regular scheduled working hours.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence in the record establishes that Ms. West failed to work the major portion of a scheduled work week through her own fault. It does not.

The evidence in the record establishes that the claimant was able and available for work at all times during this period but was not allowed to work due to a clerical error that had occurred through no fault of the claimant. When the clerical error was rectified by the administrative agency and the employer the claimant was eligible to return to her regular part-time employment with Care Initiatives.

871 IAC 24.23(29) provides:

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

(29) Failure to work the major portion of the scheduled workweek for the claimant's regular employer.

For the reasons stated herein, the administrative law judge finds that the claimant's failure to work the period of July 6 through July 21, 2008 was not due to the claimant's choice but due to factors beyond her control. The claimant is eligible for unemployment insurance benefits for this period, provided that she meets all other eligibility requirements of Iowa law.

**DECISION:**

The representative's decision dated September 18, 2008, reference 01, is reversed. The claimant was available to work her regular work week during the period of July 6 through July 21, 2008 and is eligible to receive unemployment insurance benefits, provided that she meets all other eligibility requirements of Iowa law.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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