

**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**

**KAREN S MASUCH
201 VINE ST
LUCAS IA 50151**

**NURSEFINDERS OF DES MOINES
c/o TALX UC EXPRESS
PO BOX 66864
ST LOUIS MO 63166**

**Appeal Number: 04A-UI-00802-DWT
OC 11/30/03 R 03
Claimant: Appellant (4)**

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 are 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 – Ability to and Availability for Work

STATEMENT OF THE CASE:

Karen S. Masuch (claimant) appealed a representative's January 13, 2004 decision (reference 02) that concluded she was not eligible to receive benefits because she declined an offer of suitable work that Nursefinders of Des Moines (employer) offered her on December 2, 2003. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 13, 2004. The claimant participated in the hearing. Sheryl Bakker, the branch director, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Is the claimant able to work when she restricts the hours she will work to accommodate her husband's work schedule?

Should the claimant be disqualified from receiving benefits for declining an offer of work on December 2, 2003?

FINDINGS OF FACT:

The employer is a temporary firm. The claimant registered to work for the employer's client and began working for the employer in 1996. The claimant received an out of the ordinary assignment in that she was assigned to a private client and was scheduled to work for the client on a long-term basis. The claimant worked an average of 36 hours a week and earned \$10.00 an hour at this assignment.

The last day the claimant worked at this assignment was December 1, 2003. On December 1, 2003, the claimant went to the employer's office to update her file and tell the employer what hours she was available to work. The long-term assignment the claimant had worked was over. The client passed away on December 2.

On December 2, 2003, the employer offered the claimant eight hours of work at \$11.50 per hour at a nursing home. With the work the employer had available, the claimant could have easily worked about 36 hours if she had accepted some assignments. The claimant declined the December 2, 2003 offer of work. The claimant did not tell the employer why she declined the offered assignment.

The claimant only wants to work a 7:00 a.m. to 3:00 p.m. shift because her husband does not drive and she takes him to and picks him up from work.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for unemployment insurance benefits, she must be able to and available for work. Iowa Code §96.4-3. Before a claimant can be disqualified from receiving benefits for refusing an offer of work, the claimant must be able to and available for work. 871 IAC 24.24(4). The evidence establishes the claimant was not able to or available to work the hours the employer had available because she was restricting the hours she could work to fit her husband's work schedule. The claimant has restricted the hours she will work to the point she is looking for a tailor-made job. The claimant has limited her availability to the point she is not able to or available for work. 871 IAC 24.23(17). The claimant is not eligible to receive benefits as of November 30, 2003. When the claimant does not restrict the hours she will work, she can reopen her claim and may become eligible to receive benefits if she, at that time, establishes she is able to and available for work because she no longer has restricted the hours she will work.

DECISION:

The representative's January 13, 2004 decision (reference 02) is modified in the claimant's favor. The refusal disqualification cannot be imposed upon the claimant because she was not able to or available for work when the employer offered her work on December 2, 2003. The claimant restricted the hours she would work to accommodate her husband's work schedule and is essentially looking for a tailor-made job. Therefore, as of November 30, 2003, the

claimant is not eligible to receive unemployment insurance benefits. When the claimant does not restrict the hours she is able to and available for work, she can reopen her claim and can become eligible if she is at that time able to and available for work.

dlw/b