

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARNITA L BABB
Claimant

APPEAL NO. 07A-UI-01446-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ROSEBUSH GARDENS HEALTH CARE
OF BURLINGTON**
Employer

OC: 01/21/07 R: 04
Claimant: Respondent (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Rosebush Gardens Health Care of Burlington (employer) appealed a representative's February 2, 2007 decision (reference 01) that concluded Carnita Babb (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 26, 2007. The claimant did not provide a telephone number where she could be reached and, therefore, did not participate. The employer participated by Marilyn Poss, Director of Nursing.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on November 14, 2005, as a full-time certified nursing assistant. She consistently worked 40 hours per week. During the month of February 2007, the employer reduced the claimant's hours to 32 per week. The claimant continues to work for the employer.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements

of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The claimant was hired as a full-time worker. The employer reduced the claimant's hours. The change in hours was initiated by the employer. The claimant is able and available for work.

DECISION:

The representative's February 2, 2007 decision (reference 01) is affirmed. The claimant is not disqualified from receiving unemployment insurance benefits. She is available for work when the employer has work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs