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

NUNC PRO TUNC
SECOND AMENDED
Appeal Number: 04A-UI-03387-S2T
OC: 02/01/04 R: 01
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.

DAWN D RASMUSSEN
207 – 36TH AVE W APT A
SPENCER IA 51301

HOPE HAVEN INC
1800 – 19TH ST
ROCK VALLEY IA 51247

_____
(Administrative Law Judge)

_____
(Decision Dated & Mailed)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Dawn Rasmussen (claimant) appealed a representative's March 17, 2004 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was not willing to work the number of hours requested for the occupation at Hope Haven (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 16, 2004. The claimant participated personally. The employer participated by LeAnn Blau, Residential Manager.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant worked for the employer from January 30, 2003 to the present. The claimant suffers from bi-polar disorder. The claimant was hired to work on-call as needed. On June 11, 2003, the claimant request an increase in hours to 20 hours per week and the employer granted the claimant's requested. On November 12, 2003, the claimant's physician restricted her hours to 20 hours per week and prohibited her from working 12 hour or overnight shifts. The employer followed the physician's restrictions and the claimant continued to average 20 hours per week.

On January 9, 2004, the claimant requested in writing that the employer put her on respite or on-call work. The claimant wanted her hours reduced due to personal and health issues. The claimant averaged less than 10 hours per week. On or about February 1, 2004, the claimant filed for unemployment insurance benefits because she could not live on her reduced income.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant was able and available for work. For the following reasons the administrative law judge concludes she is not.

871 IAC 24.23(16) provides:

> Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.
>
> (16) Where availability for work is unduly limited because a claimant is not willing to work during the hours in which suitable work for the claimant is available.

When an employee requests and is reduced hours, she is considered to be unavailable for work. The claimant requested a reduction of her hours and the employer granted her request. The change in hours was initiated by the claimant. She is considered to be unavailable for work from January 9, 2004. The claimant is disqualified from receiving unemployment insurance benefits due to her unavailability for work.

DECISION:

The representative's March 17, 2004 decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she is not available for work with the employer.

bas/kjf/b/b/kjf