

**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**

**JENNI R DURHAM
211 – 14TH ST SE #202
CEDAR RAPIDS IA 52403**

**FOUNDATION 2 INC
1714 JOHNSON AVE NW
CEDAR RAPIDS IA 52405**

**Appeal Number: 05A-UI-11063-CT
OC: 09/25/05 R: 03
Claimant: Appellant (2)**

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:

Jenni Durham filed an appeal from a representative's decision dated October 17, 2005, reference 01, which held she was still employed by Foundation 2, Inc. under the same terms as originally hired. After due notice was issued, a hearing was held by telephone on November 14, 2005. Ms. Durham participated personally and offered additional testimony from Janine McAvoy. Exhibits A through D were admitted on Ms. Durham's behalf. The employer participated by Tonya Stephan, Program Coordinator; Bob Hintz, Program Director; and Steve Meyer, Executive Director.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Durham began working for Foundation 2, Inc. on July 19, 2001 as a full-time family therapist. Her clients consisted of individuals referred through the Iowa Department of Human Services (DHS). If a specific therapist was not requested, the client would be assigned to Ms. Durham. She was expected to provide 80 units of service (30 minutes each) per month in order to maintain full-time status.

On September 20, 2005, Ms. Durham was notified that she did not complete a sufficient number of units in August and that she would be reduced to part-time status if she was under 80 units for two months. On September 27, she was notified that she was being reduced to part-time status effective October 1 because she had two consecutive months in which she provided less than 80 units of service. Ms. Durham was not getting as many units of service as needed because DHS had reduced the number of referrals to Foundation 2, Inc. She filed a claim for job insurance benefits effective September 25, 2005. Ms. Durham became separated from the employment on October 28, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Durham satisfied the availability requirements of the law as of the effective date of her claim, September 25, 2005. She was hired to work full time and had worked full-time hours through the end of September of 2005. She then had decreased hours because of a reduction in the amount of available work. Ms. Durham was not directly responsible for the reduction in available work. The reduction was due to fewer referrals from DHS. It was not Ms. Durham's job to recruit clients for Foundation 2, Inc. She continued to be available to work the full-time hours she had been working but the work was not available. Inasmuch as Ms. Durham's workweek was reduced through no fault of her own, she is entitled to job insurance benefits on the claim filed effective September 25, 2005.

There has been a permanent separation from the employment since Ms. Durham filed her claim. The matter of her separation is not adjudicated herein. Workforce Development will notify the parties concerning determinations on the separation issue.

DECISION:

The representative's decision dated October 17, 2005, reference 01, is hereby reversed. Ms. Durham was working a reduced workweek but remained available for full-time work. Benefits are allowed effective September 25, 2005, provided she satisfies all other conditions of eligibility.

cfc/tjc