

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**AMBER A DICUS**

Claimant

**APPEAL NO. 08A-UI-08662-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**"SIOUXLAND CARE INC**

**"HOME INSTEAD SENIOR CARE**

Employer

**OC: 08/10/08 R: 01  
Claimant: Appellant (1)**

Section 96.3 – Able and Available for Work

**STATEMENT OF THE CASE:**

Amber Dicus filed an appeal from a representative's decision dated September 22, 2008, reference 03, which denied benefits effective August 10, 2008 finding that the claimant was unduly limiting her availability for work. After due notice was issued, a hearing was held by telephone on October 14, 2008. Ms. Dicus participated personally. The employer participated by Amy Raymond, General Manager.

**ISSUE:**

The issue in this matter is whether the claimant has unduly limited her availability for work.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant began working for this employer in May 2006. Ms. Dicus works as a home care giver and is paid by the hour. Ms. Dicus normally worked 40 hours per week for Siouxland Care, Inc. After the birth of her child, Ms. Dicus reduced her working hours to some evening work and weekends. Subsequently, the claimant reduced her availability for work in her normal occupation to approximately 12 hours per week working only weekends.

The claimant has limited her availability for work because of child care obligations for her infant and because the claimant is operating a home day care Monday through Friday from 7:30 a.m. until 3:30 p.m.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence in the record establishes that Ms. Dicus is unduly limiting her availability for work. It does.

The evidence in the record clearly establishes that Ms. Dicus limited her availability to work in her normal occupation due to child care responsibilities and because the claimant is engaged in

self-employment for the major portion of each work week. Ms. Dicus limits her availability to work for outside employers to weekends when other obligations do not conflict.

871 IAC 24.23(7), (16) provides:

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

(7) Where an individual devotes time and effort to becoming self-employed.

(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.

For the above stated reasons, the administrative law judge concludes that the claimant has unduly limited her availability for work for outside employment and thus does not meet the availability requirements of the Iowa Employment Security Act. Benefits are denied as of August 10, 2008.

**DECISION:**

The representative's decision dated September 22, 2008, reference 03, is hereby affirmed. The claimant has unduly limited her availability for work and does not meet availability requirements of the Iowa Employment Security Act. Benefits are denied as of August 10, 2008.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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