

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

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

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

AMENDED

Appeal Number: 04A-UI-03388-S2T
OC: 02/01/04 R: 01
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:

Dawn Rasmussen (claimant) appealed a representative's March 19, 2004 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she was unable to work regular hours for Hope Haven (employer). After a hearing notice was mailed to the claimant's last-known addresses of record, a telephone hearing was held on April 16, 2004. The claimant participated personally.

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 requested 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(1) provides:

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

(1) An individual who is ill and presently not able to perform work due to illness.

When an employee is ill and unable to perform work due to that illness she is considered to be unavailable for work. The claimant reduced her hours due to health and personal issues. She is not considered to be available for work. The claimant is not eligible to receive unemployment insurance benefits.

DECISION:

The representative's March 19, 2004 decision (reference 02) is affirmed. The claimant is not eligible to receive unemployment insurance benefits provided she is otherwise not disqualified.

bas/kjf/b