

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

SHAVONDA M LEFLORE  
APT 10  
5055 JOHNSON AVE SW  
CEDAR RAPIDS IA 52404-6606

THE CATO CORPORATION  
CATO  
8100 DENMARK RD  
CHARLOTTE NC 28234

Appeal Number: 04A-UI-08939-S2T  
OC: 07/11/04 R: 03  
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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Shavonda LeFlore (claimant) appealed a representative's August 10, 2004 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits as of June 16, 2004, because she was unable to work during that period for The Cato Corporation (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 13, 2004. The claimant participated personally. The employer participated by Tamara Cox, Store 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 April 19 to June 8, 2004. The claimant knew what hours she worked by visiting the store and looking at the schedule. She worked the night and weekend shifts.

On June 13, 2004, the claimant requested time off work after June 8, 2004. The employer understood the request was due to the claimant's pregnancy. The claimant did not need the time off due to pregnancy but because her fiancé asked her to leave the residence. At the time the leave was granted the employer asked the claimant to contact the employer at least once per week.

After June 13, 2004, the claimant next contacted the employer on July 1, 2004. She asked to return to work. The employer assured her she would give her hours and indicated she would telephone the claimant with the hours even though she was leaving for vacation. The employer scheduled the claimant to work the week of July 12, 2004, which the employer was gone. The employer failed to notify the claimant of the hours. The claimant did not telephone or visit the store to see if she had hours.

The claimant next telephoned the employer on September 1, 2004. She told the employer she could no longer work evenings. There was no work available for the claimant during the hours the claimant requested.

#### 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(7) 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.

871 IAC 24.23(5) provides:

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

(5) Full-time students devoting the major portion of their time and efforts to their studies are deemed to have no reasonable expectancy of securing employment except if the students are available to the same degree and to the same extent as they accrued wage credits they will meet the eligibility requirements of the law.

When an employee requests and is granted time off, she is considered to be unavailable for work. The claimant requested time off and the employer granted her request. The claimant failed to maintain weekly contact with the employer. The change in hours was initiated by the claimant. She is considered to be unavailable for work from June 8, 2004.

The claimant was hired as a part-time worker. On September 1, 2004, she asked that those part-time hours be changed so that she could attend school. The employer did not have work available when the claimant changed her hours. The change in hours was initiated by the claimant. The claimant is disqualified from receiving unemployment insurance benefits from September 1, 2004, due to her unavailability for work.

DECISION:

The representative's August 10, 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/pjs