

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

MICHAEL A TERREBONNE
307 LINCOLN ST
MALCOM IA 50157

CENTRAL IOWA RESIDENTIAL
SERVICES INC
PO BOX 1356
MARSHALLTOWN IA 50158

Appeal Number: 04A-UI-08362-S2T
OC: 06/27/04 R: 02
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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Michael Terrebonne (claimant) appealed a representative's July 27, 2004 decision (reference 01) that concluded the claimant was not eligible to receive unemployment insurance benefits because he was not willing to work the number of hours required in his occupation with Central Iowa Residential Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 24, 2004. The claimant participated personally. The employer participated by Kelly Smith, Director of Program Services.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on July 29, 2002, as a full-time employee. The claimant submitted his resignation from full-time work and asked to be hired as a part-time on call program manager. The employer hired the claimant as such with no guarantee of hours per week. The employer was unable to reach the claimant for work because he had moved to another town and changed his telephone number. The claimant had given his telephone number to a co-worker but not to the employer. The employer finally located the claimant and put him to work. The claimant continues to be work for the employer on-call whenever work is available.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified for being unavailable for work. For the following reasons the administrative law judge concludes he is.

871 IAC 24.23(26) provides:

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

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant was re-hired as a part-time worker and is still working part-time for the employer. He asked that his hours be reduced and the employer complied. The change of hours was initiated by the claimant. He was still employed in a part-time position as was agreed to at the time he was re-hired. The claimant is disqualified from receiving unemployment insurance benefits because he was not available for work.

DECISION:

The representative's July 27, 2004 decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because he was not available for work.

bas/kjf