

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TERRY L WILLIAMSON**  
Claimant

**APPEAL NO. 07O-UI-11198-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GOLDEN DREAM HOMECARE**  
Employer

**OC: 09/02/07 R: 04**  
**Claimant: Appellant (1)**

Section 96.4-3 – Availability For Work

**STATEMENT OF THE CASE:**

Ms. Terry Williamson filed an appeal from a representative's decision dated October 3, 2007, reference 01, which denied benefits as of September 2, 2007 because she unduly limited the hours she was available to work for Golden Dream Homecare. After due notice was issued, a hearing was scheduled for and held by telephone on December 18, 2007. Ms. Williamson participated personally. The employer participated by Donna Albert, President/Owner.

**ISSUE:**

The issue in this matter is whether Ms. Williamson was available for work as of September 2, 2007.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The claimant worked for this employer from April 28, 2007 until July 22, 2007 as a home health aide. After the claimant's most recent long-term assignment ended, the employer offered the claimant first and second shift work on a number of occasions. At the time of hire it was explained to the claimant that because of client needs, employees are generally required to be available for various shifts and that the employer could not guarantee one specific working shift.

Ms. Williamson declined offers of work on the first and second shift because of child care arrangements for her grandson and because of medical appointments related to a previous back condition. Ms. Williamson opened a claim for unemployment insurance benefits effective September 2, 2007. The claimant has declined offers of first and second shift work after opening her claim for benefits. It is claimant's position that she was available for third shift work, however, medical appointments and child care considerations have prevented her from accepting assignments on those shifts.

## REASONING AND CONCLUSIONS OF LAW:

The question for the administrative law judge is whether the evidence in the record establishes that the claimant is able and available for work within the meaning of the Iowa Employment Security Act after opening a claim for unemployment insurance benefits. The evidence in the record shows that she is not. At the time of hire it was explained to Ms. Williamson that due to the nature of the work in the home health field, it is generally expected that the claimant make herself available to work on various work shifts. The claimant initially was assigned to work the third or night shifts at a particular client. When that client no longer needed the claimant to perform those duties, Golden Dream Homecare repeatedly offered Ms. Williamson work on the first and second shifts. The evidence in the record establishes the claimant repeatedly refused those offers because she had other obligations which included child care and "appointments" which included medical appointments. In order to be eligible for unemployment insurance benefits, the claimant must be able and available for work. Iowa Code section 96.4-3. When Ms. Williamson agreed to perform this type of work for the employer she agreed and understood that various shift work would be required. After July 22, the claimant indicated that she was not available to work any shift except the third shift even though she had previously worked some other shifts for the employer. Because of the claimant's refusal to work available shifts, she made herself unavailable to work and not eligible to receive unemployment insurance benefits since the effective date of her claim, September 2, 2007.

871 IAC 24.22(2)c provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

c. Intermittent employment. An individual cannot restrict employability to only temporary or intermittent work until recalled by a regular employer.

For the reasons stated herein, the administrative law judge concludes that the claimant is not able and available for work within the meaning of the Iowa Employment Security Law. Benefits are withheld as of September 2, 2007.

**DECISION:**

The representative's decision dated October 3, 2007, reference 01, is affirmed. The evidence does not establish the claimant is able and available for work since opening her claim for unemployment insurance benefits. The claimant is not eligible to receive unemployment insurance benefits effective September 2, 2007 until such time as she establishes expanded availability for work.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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