

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JODI SMITH**  
Claimant

**APPEAL NO: 14A-UI-10884-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CIRCLE OF FRIENDS HOME CARE**  
Employer

**OC: 09/28/14**

**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Jodi Smith (claimant) appealed a representative's October 15, 2014 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits because she was not adequately able and available for work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 6, 2014. The claimant participated in the hearing. Emery McDonald appeared on behalf of Circle of Friends Home Care (employer). Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant eligible for unemployment insurance benefits by being able and available for work?

**FINDINGS OF FACT:**

The claimant started working for the employer on April 30, 2012. Through August 2013 she worked full time as a registered nurse. She then reduced her hours because she has been classified as disabled for purposes of social security eligibility due to an inability to be on her feet full time. She kept her hours down to about seven to ten hours per week; this was because she could not earn more than \$1,070.00 per month or she would incur a penalty on her disability benefits. Additional hours would have been available with the employer if the claimant was able to work those other hours.

The claimant's last day of work was September 25, 2014. As determined in another representative's decision also issued on October 15 (reference 01), the employer discharged the claimant but not for misconduct, due to the claimant's availability not meeting the employer's business needs. She established an unemployment insurance benefit year effective September 28, 2014.

**REASONING AND CONCLUSIONS OF LAW:**

With respect to any week in which unemployment insurance benefits are sought, in order to be eligible the claimant must be able to work, be available for work, and be earnestly and actively seeking work. Iowa Code § 96.4-3. A claimant must remain available for work on the same basis as when her base period wages were accrued. Rule 871 IAC 24.22(2)f. Here, the high quarter of the claimant's base period, the quarter upon which her benefit eligibility is based, was the second quarter 2013, when she was working full time. Further, a person who limits her availability for work because of a determination to avoid adversely affecting payments of social security benefits is not able and available for work. Rule 871 IAC 24.23(22).

**DECISION:**

The representative's October 15, 2014 decision (reference 02) is affirmed. The claimant is not able to work and available for work effective September 23, 2014. The claimant is not qualified to receive unemployment insurance benefits.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs