

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELIAH N JAMES**

Claimant

**APPEAL NO. 09A-UI-07711-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**GOOD SAMARITAN SOCIETY INC**

Employer

**Original Claim: 04/05/09**

**Claimant: Appellant (1)**

Section 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

Meliah James filed an appeal from a representative's decision dated May 19, 2009, reference 02, which denied benefits on a finding that she was still employed by Good Samaritan Society, Inc. under the same terms and conditions as hired. After due notice was issued, a hearing was held by telephone on June 12, 2009. Ms. James participated personally. The employer participated by Fred Metcalf, Human Resources Associate.

**ISSUE:**

At issue in this matter is whether Ms. James is entitled to job insurance benefits on her claim filed effective April 5, 2009.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. James began working for Good Samaritan Society, Inc. in April of 2008 as a CNA. She was hired to work Friday, Saturday, and Sunday of each week for a total of 24 hours. In November of 2008, she asked to have her hours reduced because of her school attendance. She was told she would be on "prn" status, meaning she would be called as her services were needed. Ms. James was told she could work additional hours during her breaks from school.

Ms. James worked three or four days during the Christmas recess from school. She called the employer during her spring break in April and was told no hours were available due to low census. She is still on "prn" status, but the employer has not had a need for her services since December of 2008. Ms. James filed a claim for job insurance benefits effective April 5, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

Ms. James was hired to work 24 hours each week but voluntarily reduced her hours. She chose to work as needed rather than the set schedule for which she was hired. The administrative law judge does not believe the employer promised her any minimum number of hours or that she could work unlimited hours during her breaks from school. She knew or should have known that

the need for her services would be dependent upon the facility's census. Because Ms. James' unemployment is due to her own voluntary choice to become an on-call employee, she is not entitled to job insurance benefits when the employer has no work available for her.

An individual who is still employed under the same terms and conditions as agreed is not considered available for work within the meaning of Iowa Code section 96.4(3). See 871 IAC 24.23(26).

**DECISION:**

The representative's decision dated May 19, 2009, reference 02, is hereby affirmed. Ms. James is denied benefits effective April 5, 2009, as she was not available for work within the meaning of the law.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

cfc/kjw