

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FELIX BORGE
Claimant

APPEAL NO. 08A-UI-06757-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BOSTON WINDOW CLEANING INC
Employer

OC: 06/22/08 R: 04
Claimant: Respondent (1)

Section 96.4-3 - Able to and Available for Work

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated July 16, 2008, reference 02, that concluded he was able to and available for work and the employer's account would not be charged. A telephone hearing was held on August 7, 2008. The parties were properly notified about the hearing. The claimant participated in the hearing with an interpreter, Ike Rocha, and a witness, Joyce Borge. Joseph McDonald participated in the hearing on behalf of the employer.

ISSUE:

Was the claimant able to and available for work?

FINDINGS OF FACT:

The claimant worked full time for Temp Associates and part-time on weekends for the employer. The claimant was dismissed from his full time job with Temp Associates. The claimant continued to work weekends at the same wages and hours as he had always worked. The claimant's weekly benefit amount was \$282.00. He has had weeks in which his wages were less than his earnings limit of \$297.00.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. The law permits claimants to receive partial unemployment insurance benefits if they are working less than full time and earn wages less than their weekly benefit amount. Iowa Code § 96.19-38

Iowa Code § 96.7-2-a(2) provides that the amount of benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred unless the individual is still employed by a base period employer at the time the individual is receiving the benefits and is receiving the same employment from the employer that the individual received during the individual's base

period or the individual has been discharged for work-connected misconduct or voluntarily quit employment without good cause attributable to the employer or refused suitable work without good cause.

The claimant is eligible to receive partial unemployment insurance benefits in any week in which he was not working or was working less than full-time and his wages were less than his weekly benefit amount. The employer's account shall not be charged for benefits paid to the claimant since because was providing the same employment as provided in the base period.

DECISION:

The unemployment insurance decision dated July 16, 2008, reference 02, is affirmed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible. The employer's account is not chargeable for benefits paid to the claimant.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css