

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LORI A LAKE

Claimant

APPEAL NO. 12A-UI-03512-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**GOLDEN CIRCLE
BUSINESS SOLUTIONS INC**

Employer

OC: 01/15/12

Claimant: Appellant (4)

Section 96.4-3 – Able and Available

Section 96.4-3 – Still Employed Same Hours and Wages

STATEMENT OF THE CASE:

The claimant filed a timely appeal from a representative's decision dated March 29, 2012, reference 01, which denied unemployment insurance benefits as of January 15, 2012, finding the claimant could not be considered partially unemployed because she was still employed at the same hours and wages as agreed at the time of hire. After due notice was issued, a telephone hearing was held on April 23, 2012. The claimant participated. The employer participated by Ms. Dawn Bale, manager.

ISSUE:

At issue is whether the claimant is able and available for work.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Lori Lake was previously employed by Golden Circle Business Solutions but left employment to accept other work with General Surgery Physicians.

After being separated from her employment with General Surgery Physicians, Ms. Lake opened a claim for unemployment insurance benefits with an effective date of January 15, 2012. Ms. Lake applied for a position and was rehired by Golden Circle Business Solutions on January 23, 2012. The claimant then began full-time employment with Golden Circle Business Solutions and continues to be employed full-time at the time of hearing.

During the one-week period between January 15, 2012 (the date that the claimant opened her claim for benefits), and January 23, 2012 (the date she was hired by Golden Circle Business Solutions), Ms. Lake actively and earnestly sought employment with prospective employers and was able and available to accept employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

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.

Ms. Lake was separated from her previous employment with General Surgery Physicians and subsequently opened a claim for unemployment insurance benefits with an effective date of January 15, 2012. During the one-week period between January 15, 2012, and January 23, 2012, Ms. Lake actively and earnestly sought work with prospective employers and posed no limitations on her availability for work. The administrative law judge concludes that the claimant was not employed at the same hours and wages with Golden Circle Business Solutions during the one-week period between January 15, 2012, and January 23, 2012. The claimant is potentially eligible to receive unemployment insurance benefits, provided she has met all other eligibility requirements of Iowa law.

DECISION:

The representative's decision dated March 29, 2012, reference 01, is affirmed as modified. The claimant is not eligible to receive unemployment insurance benefits effective January 23, 2012, based upon her employment with Golden Circle Business Solutions. The claimant is potentially eligible to receive unemployment insurance benefits for the one week period between January 15, 2012, and January 23, 2012, as the claimant has met the able and available requirements of the Iowa Employment Security law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw