

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTIAN CHARBONNEAUX
Claimant

APPEAL NO. 10A-UI-01659-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA STATE UNIVERSITY
Employer

OC: 12/27/09
Claimant: Respondent (2)

Iowa Code § 96.19-38-b – Eligibility for Partial Unemployment Insurance Benefits

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated January 26, 2010, reference 01, that concluded the claimant was on a short-term layoff. A telephone hearing was held on March 5, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. Greg Bolles participated in the hearing on behalf of the employer.

ISSUE:

Is the claimant eligible for unemployment insurance benefits for the week of December 27, 2009?

FINDINGS OF FACT:

The claimant has been employed as a system support specialist since December 10, 2002. He is a 12-month employee who is paid a monthly salary for his work.

As a result of Iowa State University budget cuts, the claimant was required to take four furlough days before June 30, 2009. He was allowed to take the four days in one week or spread them out. Under the furlough plan, the reduction in pay attributable to the furlough days taken was to be spread out over first six months of 2010.

The claimant scheduled his four furlough days for December 28 through 31. The claimant received his full salary for December 2009. The reduction in pay for the furlough days will be made in his January through June 2010 paychecks.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is eligible for benefits for the week of December 27, 2009, through January 2, 2010.

Iowa Code § 96.19-38-b provides: “ An individual shall be deemed partially unemployed in any week in which, while employed at the individual's then regular job, the individual works less than

the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.”

Under this statute, the claimant would not be eligible for unemployment because while he worked less than his full-time workweek, his earnings for the week stayed the same because he received his full salary.

I recognize some inequity here since the claimant would have been eligible for benefits if the university had deducted the whole amount of pay attributed to the furlough days immediately. On the other hand, because the pay reduction was spread out after the furlough days were taken, there ends up being no week in which the claimant's earnings are less than his weekly benefit amount plus \$15.00. I am convinced, however, that this pay reduction allocation was not to manipulate the unemployment system, but instead was to cushion the blow of the reduction by spreading it out.

DECISION:

The unemployment insurance decision dated January 26 2010, reference 01, is reversed. The claimant is denied benefits for the week of December 27, 2009, through January 2, 2010.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css