

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JAIME S GIBSON**

Claimant

**APPEAL NO. 11A-UI-09935-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEAM STAFFING SOLUTIONS INC**

Employer

**OC: 11/28/10**

**Claimant: Appellant (1)**

Section 96.4-3 – Still Employed at Same Hours and Wages

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from a representative's decision dated July 22, 2011, reference 02, which denied benefits effective June 26, 2011, finding the claimant was still employed at the same hours and wages as in the original agreement of hire. After due notice was issued, a telephone hearing was held on August 22, 2011. The claimant participated personally. The employer participated by Ms. Sarah Fiedler, claims administrator.

**ISSUE:**

The issue is whether the claimant is disqualified for being unavailable for work.

**FINDINGS OF FACT:**

The administrative law judge, having considered all the evidence in the record, finds: Jaime Gibson began employment with Team Staffing Solutions on June 9, 2011, and was assigned to work at Total Connections, a client employer. The claimant averages approximately 32.85 hours per week at the Total Connections assignment. Ms. Gibson was aware that she is not guaranteed any minimum number of hours at that assignment each week. The claimant re-opened her claim for unemployment insurance benefits effective June 26, 2011. Ms. Gibson is not eligible to be placed in additional assignments with Team Staffing Solutions, as the number of hours that she is assigned at Total Connections precludes other assignments during the work week.

**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".

Iowa Code section 96.5-1-a provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

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.

The claimant was hired to work in a part-time capacity through Team Staffing Solutions at the client employer, Total Connections. She is still employed in her position, averaging 32.85 hours or more each week. Ms. Gibson understood at the time of hire there was no minimum number of working hours guaranteed. The claimant is disqualified from receiving unemployment insurance benefits, because she is not available for work due to her work with this employer.

**DECISION:**

The representative's decision dated July 22, 2011, reference 02, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits, because she is not available for work.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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