

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WILLIAM DEARDEN
Claimant

APPEAL NO: 15A-UI-06934-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GLOBAL SPECTRUM LP
Employer

OC: 05/24/15
Claimant: Appellant (4)

Section 96.4-3 – Able and Available for Work
Section 96.4-3 – Same Hours and Wages

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 12, 2015, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 22, 2015. The claimant participated in the hearing. Diane Frischmeyer, Director of Finance, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant is still employed with the employer for the same hours and wages as contemplated in the original contract of hire.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed as an on-call guest services attendant for Global Spectrum (Iowa Events Center). He remains employed in that position at the current time.

The claimant also works part-time at Durham Inc., a bus company, as a bus attendant working with special needs students during their bus rides during the school year. He does not work during the summer but is eligible for benefits from Durham as he is on a temporary layoff. Durham is a base period employer for the claimant.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is still employed at the same hours and wages as contemplated in the original contract of hire with Global Spectrum but is eligible for benefits based on his part-time employment at Durham Bus Company during the temporary layoff.

Iowa Code § 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".

The claimant was hired as an on-call guest services attendant. He is still employed in the same capacity and for the same hour and wages. There has been no separation from his on-call part-time employment and the claimant is currently working for this employer at the same hours and wages as contemplated in the original contract of hire. The claimant is not allowed to receive benefits based on his on-call employment with Global Spectrum. However, he has a qualifying temporary lay-off from his other part-time position with Durham Inc. because he is not working the same hours as in his original contract of hire. Consequently, because he is still working the same hours for Global Spectrum but is not working the same hours with Durham, his other base period employer, he is eligible for benefits based on the layoff from Durham, provided he is otherwise eligible.

DECISION:

The June 12, 2015, reference 01, decision is modified in favor of the claimant. The claimant is still employed at the same hours and wages as in his original contract of hire with Global Spectrum and therefore is not qualified for benefits based on his on-call, part-time employment with Global Spectrum. The employer's account is not subject to charge based on his on-call, part-time employment. However, the claimant is eligible for benefits based on his temporary layoff from Durham Inc., another base period employer, provided he is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/mak