

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES R PALMER JR
Claimant

APPEAL NO. 07A-UI-07860-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

FOODS INC
Employer

OC: 08/05/07 R: 02
Claimant: Respondent (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Foods (employer) appealed a representative's August 14, 2007 decision (reference 01) that concluded James Palmer, Jr. (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 30, 2007. The claimant did not provide a telephone number where he could be reached and, therefore, did not participate. The employer participated by Mark Sparland, Store Director, and Charmian Folkerts, Payroll Supervisor.

ISSUE:

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

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 19, 2006,, as a part-time cashier earning \$8.50 per hour working at the Euclid location. He worked an average of approximately 9 hours per week from June 1 through August 3, 2007. During the week ending August 11, 2007, the claimant worked 24.5 hours. His hourly wage increased to \$10.50 in anticipation of a move to a full-time position at the West Hickman location. As of August 12, 2007, the claimant was a full-time bakery clerk earning \$10.50 per hour.

REASONING AND CONCLUSIONS OF LAW:

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 as a part-time worker and was still working part-time for the employer the week ending August 11, 2007. The claimant worked more hours for the employer that week than usual. He was still employed in a part-time position as was agreed to at the time he was hired. The claimant is disqualified from receiving unemployment insurance benefits for the week ending August 11, 2007, because he was not available for work.

DECISION:

The representative's August 14, 2007 decision (reference 01) is reversed. The claimant is disqualified from receiving unemployment insurance benefits because he was not available for work

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs