

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTINE A PATTERSON**  
Claimant

**APPEAL NO. 12A-UI-12908-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CITY OF WEST DES MOINES**  
Employer

**OC: 01/15/12  
Claimant: Appellant (1)**

Section 96.5-4-3 – Eligibility for Benefits  
Section 96.19-38 – Definition of Unemployment

**STATEMENT OF THE CASE:**

Christine A. Patterson filed a timely appeal from an unemployment insurance decision dated October 17, 2012, reference 02, that denied benefits to her upon a finding that she was an on-call employee still working for her employer in the same manner as in the past. After due notice was issued, a telephone hearing was held November 14, 2012, with Ms. Patterson participating. Human Resources Administrator Rhonda Seeley and Human Resources Director Jane Dodge participated for the employer, City of West Des Moines. Employer Exhibit 1 was admitted into evidence.

**ISSUE:**

Is the claimant eligible for unemployment insurance benefits?

**FINDINGS OF FACT:**

Christine A. Patterson is presently employed by the City of West Des Moines as a building attendant. It is an intermittent position with no regular hours. Ms. Patterson is called to work if permanent employees are not available. She has worked other intermittent positions, including one in the finance department that lasted from January 10, 2011, through March 12, 2012. Ms. Patterson worked more hours in that position, but again the hours were dictated by the employer's staffing needs. She has been an intermittent employee of the City of West Des Moines since resigning from a full-time position as recreation coordinator in May of 2008.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether Ms. Patterson is eligible to receive unemployment insurance benefits. The administrative law judge concludes from the evidence that she is not.

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".

The first step in determining eligibility is to determine if the individual is, in fact, unemployed. The term is defined in Iowa Code section 96.19-38. An individual is totally unemployed if, for a given week, the individual performs no services and earns no wages from his or her regular employer. A person is partially unemployed if, through no fault of the individual's own, the individual works fewer than the regular number of hours and earns less than the sum of the individual's weekly benefit amount plus fifteen dollars. Not all individuals with irregular work schedules are considered to be unemployed. On-call workers, such as substitute school teachers, banquet workers, and railway extra board workers, are not considered to be unemployed because of the irregular nature of their jobs. The evidence in this record persuades the administrative law judge that Ms. Patterson's employment with the City of West Des Moines falls into the latter category. She works when needed. Finding no fundamental change in that working arrangement, the administrative law judge concludes that Ms. Patterson is not eligible for unemployment insurance benefits, because she does not meet the definition of being unemployed.

**DECISION:**

The unemployment insurance decision dated October 17, 2012, reference 02, is affirmed. The claimant is not eligible to receive unemployment insurance benefits.

---

Dan Anderson  
Administrative Law Judge

---

Decision Dated and Mailed

kjw/kjw