

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEBBIE S CLEMON**

Claimant

**APPEAL NO: 086A-UI-09366-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MUNICIPAL CREDIT UNION**

Employer

**OC: 08/10/08 R: 01  
Claimant: Respondent (2)**

871 IAC 24.23(26) – Continued Part-Time Employment when Hours have not been Reduced  
Section 96.3-7 – Recovery of Overpayment of Benefits

**STATEMENT OF THE CASE:**

Municipal Credit Union (employer) appealed a representative's October 9, 2008 decision (reference 01) that concluded Debbie S. Clemon (claimant) was qualified to receive benefits, and the employer's account was subject to charge because the claimant was not working in the same pattern she had been during her base period. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 27, 2008. The claimant participated in the hearing. Lorraine Groves, the manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Is the claimant eligible to receive benefits based even though she continues to work part-time for the employer?

Is the employer's account subject to charge?

Has the claimant been overpaid any benefits?

**FINDINGS OF FACT:**

The claimant initially established a claim for benefits on August 12, 2007, after her full-time job with another employer ended. The claimant began working for the employer on February 8, 2008. When hired the employer guaranteed the claimant eight hours every Friday and would call her to work as needed to fill in for other employees. The claimant's employment arrangement with the employer has not changed since February 2008.

The claimant established a new benefit year during the week of August 10, 2008. Since then she has filed claims for partial benefits for the weeks ending August 16 through October 25, 2008. She has received a total of \$2,082.00 in partial benefits during these weeks.

**REASONING AND CONCLUSIONS OF LAW:**

When a claimant establishes a claim and is still employed in a part-time job at the same hours and wages as contemplated when hired and is not working a reduced workweek, the claimant cannot be considered partially unemployed and is not eligible to receive benefits. 871 IAC 24.23(26). The facts in this case establish the claimant started working after she established a benefit year on August 12, 2007. Since February 2008 the claimant has worked the same hours the employer initially hired her to work. The claimant has only worked for the employer since February 2008 and cannot be considered unemployed because she is not working reduced hours. The claimant cannot be considered unemployed even though she is only working part-time because she agreed to part-time. This means that as of August 10, 2008, the claimant is not qualified to receive benefits. At this time, the employer's account is not subject to charge.

If an individual receives benefits she is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code section 96.3-7. The claimant is not legally entitled to receive benefits for the weeks ending August 16 through October 25, 2008. The claimant has been overpaid \$2,082.00 in benefits she received during these weeks.

**DECISION:**

The representative's October 9, 2008 decision (reference 01) is reversed. The claimant cannot be considered unemployed because she continues to work in the same manner as she was hired to work at her part-time job. As a result, the claimant is not eligible to receive benefits, even partial benefits as of August 10, 2008. Since the claimant is not legally entitled to receive benefits, she has been overpaid and must repay a total of \$2,082.00 in benefits she received for the weeks ending August 16 through October 25, 2008.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs