

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ASHLEY HEIM
Claimant

APPEAL NO: 12A-UI-09561-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SCHELDROP BLADES
Employer

**OC: 09/04/11
Claimant: Respondent (4)**

Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code 96.19(38)b – Partially Unemployed

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's July 30, 2012 determination (reference 05) that held the claimant eligible to receive benefits as of June 17, 2012, because even though she still worked for the employer, she was not working the same hours she had been during her base period. The claimant participated in the hearing. Chris Landherr represented the employer. Heather Cousher, the administrative service manager, testified on the employer's behalf.

The employer raised the issue of whether the claimant actively looked for work as of June 17, 2012. Even though this issue was not listed on the hearing notice, the parties waived notice so this issue could be addressed in this decision.

Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant eligible to receive benefits as of June 17, 2012.

ISSUES:

Is the claimant actively looking for work?

As of June 17, 2012, is the claimant eligible to receive benefits?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of September 4, 2011. In February 2012, the employer hired the claimant to work as a file clerk. The employer did not guarantee the claimant a minimum number of hours she would work each week. During the claimant's employment, she worked as a file clerk and an intern for the employer while she attended school. The claimant worked an average of 20 hours a week as a file clerk. The employer accommodated her school schedule. After June 17, 2012, the employer has not scheduled the claimant to work or called her to work because the employer did not have work for her to do.

The claimant reopened her claim the week of June 17, 2012. The claimant had Department Approved Training through until June 29, 2012. After the claimant completed her schooling, she has been applying for and actively seeking a paralegal job.

REASONING AND CONCLUSIONS OF LAW:

A claimant is considered partially unemployed in any week in which she worked less than full time and earns less than her maximum weekly benefit amount plus \$15 when she has separated from her regular job. Iowa Code § 96.19(38)b. The facts show the claimant established a claim for benefits the week of September 4, 2011, or before the employer hired her in February 2012. The employer is not one of her base period employers. To hold the claimant ineligible to receive benefits for accepting a part-time job contradicts the purpose of unemployment insurance benefits and the goal to have claimants become employed and self-sufficient. Even though the employer still considers the claimant an on-call, as-needed employee, the claimant has not worked for the employer since June 17 because the employer did not have work for her to do. The record indicates the claimant was eligible to receive partial benefits after the employer hired her. The fact the employer has not had work for the claimant to do since June 17, does not make the claimant ineligible to receive benefits.

Each week a claimant files a claim for benefits, she must actively seek work unless the work search requirements have been waived. Iowa Code § 96.4(3). When the claimant attended school she had Department Approved Training. The law states that when a claimant attends school and has Department Approved Training, she is not required to look for work and a base period employer will not be charged. Iowa Code § 96.4(6). The claimant's work search requirements were waived until June 29, 2012. As of July 1, the claimant was required to actively look for work. She established that she met this requirement.

Since the employer is not one of the claimant's base period employers on her September 4, 2011 claim, the employer's account will not be charged during the claimant's current benefit year. This benefit year ends on September 1, 2012.

The representative's determination appears to have relied on 871 IAC 24.23(26) which did not apply as of June 17, 2012. If the claimant establishes a new benefit year after September 1, 2012, the employer may then be a base period employer and the Claims Section will have to determine if its account is subject to or exempt from charge.

DECISION:

The representative's July 30, 2012 determination (reference 05) is modified in the employer's favor. The claimant remains eligible to receive benefits as of June 17, because the employer did not have work for her to do. As of July 1, 2012, or after the claimant's Department Approved

Training status ended, the claimant has actively looked for work. Since the employer is not a base period employer, the employer's account is not subject to charge during the claimant's benefit year. If the claimant establishes a new benefit year, the issue of whether the employer's account is subject to or exempt from charge must at that time be determined.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs