

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**BRENDA A ELLIS**  
Claimant

**APPEAL NO. 15A-UI-06363-S1-T**

**ADMINISTRATIVE LAW JUDGE  
AMENDED DECISION**

**CHEF IVOS INC**  
Employer

**OC: 12/21/14  
Claimant: Appellant (2R)**

Iowa Code § 96.4(3) – Able and Available  
871 IAC 24.22(2)f – Part-Time Worker – Able and Available

**STATEMENT OF THE CASE:**

Brenda Ellis (claimant) appealed a representative's May 21, 2015, decision (reference 05) that concluded she was not eligible to receive unemployment insurance benefits because she is still employed in her job for the same hours and wages as she was hired by Chef Ivos (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for July 13, 2015. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing. Exhibit One was received into evidence.

**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 in August 2014, as a part-time bartender and fill-in server. She worked forty-two to seventy-five hours semimonthly. At the time she was hired she was promised at least three shifts per week. At the end of December 2014, her hours were reduced because of the holidays. The claimant filed for unemployment insurance benefits with an effective date of December 21, 2014. When the claimant filed for unemployment insurance benefits, the employer reduced the claimant's hours to one day every other week. On March 5, 2015, the employer told the claimant to return her key and she was placed on "on call" status. The employer did not put the claimant on the schedule after March 5, 2015. On June 14, 2015, the business closed.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Admin. Code r. 871-24.23(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.

On December 21, 2014, when the claimant filed for unemployment insurance benefits, she was not working part-time for the employer in the hours she had agreed upon at the time she was hired. Her hours had been reduced by the employer. The claimant is qualified to receive unemployment insurance benefits.

The matter of the claimant's separation from employment and business closure is remanded for determination.

**DECISION:**

The representative's May 21, 2015, decision (reference 05) is reversed. The claimant is qualified to receive unemployment insurance benefits, so long as she is otherwise eligible.

The matter of the claimant's separation from employment and business closure is remanded for determination.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/mak