

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GARY L COOPER
Claimant

APPEAL NO. 10A-UI-07035-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

PER MAR SECURITY & RESEARCH CORP
Employer

**Original Claim: 03/28/10
Claimant: Respondent (1)**

Section 96.19-38-b –Eligibility for Partial Unemployment Insurance Benefits

STATEMENT OF THE CASE:

The employer filed an appeal from a representative's decision dated May 3, 2010, reference 01, which held the claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on June 29, 2010. The claimant participated. Although the employer provided a name and telephone number of a representative for the hearing, when that telephone number was dialed by the administrative law judge, voice mail picked up. A detailed message was left on how to participate in the hearing. The employer did not call in prior to the end of the hearing and the closing of the record.

ISSUE:

Whether the claimant was employed by the employer for less than his usual hours and wages even though he remains able and available for work and whether he is, therefore, eligible for partial unemployment insurance benefits

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered all of the evidence in the record, makes the following findings of fact:

The claimant works as a part-time security guard for the employer. He has been employed since May 2005. The claimant's hours fluctuate somewhat from week to week. At the time of his original claim, March 28, 2010, the claimant's hours were down to only about 12 hours per week, which was less than he had been averaging prior to his claim. The claimant has been able and available for work and has reported his earnings since he filed his original claim.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides that a claimant is deemed partially unemployed if he is not employed at his usual hours and wages and earns less than his weekly benefit amount plus \$15.00 in other employment. Iowa Code section 96.19-38-b.

Beginning on or about March 28, 2010, there have been weeks in which the claimant has not held the same employment as he did during his base period. Consequently, the claimant is qualified to receive partial unemployment insurance benefits upon the filing of his claim effective March 28, 2010, provided he was otherwise eligible.

In order to be otherwise eligible, the claimant must remain available for work on the same basis as when he was previously working full-time and earning the wage credits on which his unemployment insurance benefits are based. Iowa Code section 96.4-3; 871 IAC 24.22(2)(a). He must also report all wages attributable to weeks in which he files weekly claims.

DECISION:

The unemployment insurance decision dated May 3, 2010 (reference 01) is affirmed. The claimant is eligible for full or partial unemployment insurance benefits for weeks after March 28, 2010, in which his regular hours were not made available to him even though he is available for work on the same basis.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw