

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**DARRELL R REDDING**  
Claimant

**APPEAL NO: 18R-UI-05539-TN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**AEROTEK INC**  
Employer

**OC: 02/04/18**  
**Claimant: Appellant (1)**

Iowa Code § 96.4 (3) – Available for Work  
IAC R 871-24.23(26) – Still employed at same hours and wages

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from a representative's unemployment insurance decision dated March 15, 2018, reference 03, which denied unemployment insurance benefits as of February 18, 2018, finding that the claimant was working enough hours to be considered employed and therefore did not meet the availability requirements of the law. A telephone hearing was scheduled for April 19, 2018. Claimant did not participate. The administrative law judge's decision was entered on April 19, 2018, affirming the March 15, 2018, reference 03, adjudicator's decision. Mr. Redding appealed to the Employment Appeal Board. The matter was remanded for a new hearing because Mr. Redding had not received the previous Notice of Hearing. After due notice was provided, a telephone hearing was held on June 1, 2018. Mr. Redding participated. Although duly notified, there was no participation by the employer.

**ISSUE:**

The issue is whether the claimant is able and available for work within the meaning of the Iowa Employment Security Law.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Darrell Redding most recently opened a claim for unemployment insurance benefits with an effective date of February 4, 2018. Mr. Redding was at the area claim center when he opened his claim and he was referred to possible employment with Aerotek, Inc.

Mr. Redding completed the application process with Aerotek Inc. and began employment on a part-time basis through the temporary employment company service on February 15, 2018. After working the two days remaining during the first week, Mr. Redding was then assigned to work four to six days per week through Aerotek, Inc. at a client employer location. Mr. Redding continued to work part-time as agreed until the assignment later ended.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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".

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.

After opening a claim for benefits, Mr. Redding accepted part-time work with Aerotek that prevented him from being available for full-time work in the general labor market. The claimant was hired as a part-time worker through Aerotek, Inc. temporary employment service and continued to work part-time for the employer. He continued to be employed in a part-time position as agreed at the time of hire, and understood at the time of hire that his hours were dependent upon hours needed by the client employer. The claimant is disqualified from receiving unemployment insurance benefits because he was not available for work due to his work with a part-time employer.

**DECISION:**

The representative unemployment insurance decision dated March 15, 2018, reference 03, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because he is not able and available for work.

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Terry P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

scn/scn/rvs