

BEFORE THE  
EMPLOYMENT APPEAL BOARD  
Lucas State Office Building  
Fourth floor  
Des Moines, Iowa 50319

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THOMAS P REDING

Claimant

and

US POSTAL SERVICE/EQUIFAX

Employer

HEARING NUMBER: 20BUI-01750

EMPLOYMENT APPEAL BOARD  
DECISION

**NOTICE**

**THIS DECISION BECOMES FINAL** unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

**SECTION:** 96.4-3, 24.23-26

**DECISION**

**UNEMPLOYMENT BENEFITS ARE DENIED**

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. With the following modification, the administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED** with the following **MODIFICATION**:

The Administrative Law Judge's decision is modified by changing the phrase "Because claimant asked to work only part-time hours" in the first full paragraph of page 3 to "Because the claimant entered into a contract for part-time employment,"

The Board provides the following additional explanation.

This is not a case of moonlighting where the worker worked for a part-time employer and a full-time employer at the same time. In such cases, the continued part-time work does not prevent the worker from drawing on the full-time credits. Here the Claimant worked the part-time job for many months after the loss of his previous job and before filing his second benefit year claim. By the time of the second benefit year claim, this part-time position was indeed his "regular" employment. This means we are not looking at a case where a worker picks up temporary "odd job" work after having lost regular employment. The postal job is, as the Claimant himself emphasizes in argument to us, his regular job and it was part-time work except for a period of full-time work.

The key to the case is that a part-time worker whose contract anticipates fluctuation in hours cannot get benefits just because hours fluctuate. Otherwise, the very nature of part-time employment is undermined, and jobs of that kind would lose much of their efficacy, and so start to disappear. The technical legal reason is that the Claimant is not working an odd job and so cannot benefit from the odd job provision. 871 IAC 24.1(86)(Odd job earning is “[a]ny earnings which a claimant may have during a week of unemployment as a result of temporary work with an employing unit other than the claimant’s regular employing unit.”). And for partial employment while still employed with a regular employer, rule 24.23(26) relied upon by the Administrative Law Judge denies benefits if the 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...” See *generally Powell v. EAB*, 861 N.W.2d 279 (Iowa App. 2014). The Claimant confirms that his contract did not guarantee hours, even in argument to us, and so the decision of the Administrative Law Judge is correct.

We explain to the Claimant none of this has anything to do with exceeding his weekly benefit amount for 4 weeks. After a worker has exceeded the WBA for 4 weeks, Iowa Workforce triggers the case for additional inquiry if the claim is re-opened. This is because Workforce does not get real-time wage reports from employers. It gets them only at the end of the quarter, and even then Workforce does not have the capacity to quickly review the hundreds of thousands of wage reports and cross-index them with the thousands of weekly claims filed in a quarter. Yet some mechanism is needed to deal with job separations occurring in a benefit year. For example, consider a worker who is laid off from Tyson in May, collects benefits a few months, and then gets a job from Casey’s in October. Workforce would not know about the Casey’s job until the following January (after the end of the quarter) if it relied on wage reports from Casey’s. But a claimant’s report of wages, or failure to file a weekly a claim, happens every week. This means when there are enough consecutive weeks with wages above the earnings limit, and/or no weekly claim filed, the agency can see it right away. And common reasons for such action include having a job in the case of the earnings, or perhaps no longer looking for work in the case of not filing weekly claims (often because of illness). In our example since the claimant diligently reported wages, or stopped claiming, while working at Casey’s the agency closed the continued claim, meaning, that if the claimant filed again the agency would require additional information about what happened before paying. So suppose the worker from our example commits misconduct and is fired from Casey’s in December. When he reactivates his claim the agency now requires information about what happened with the most recent employer (Casey’s). This way the disqualifying separation can be detected. Were it otherwise the agency would just pay benefits until it eventually detected the job loss at Casey’s, set the case for adjudication, and disqualified from benefits. This could result in many weeks of overpayment. Of course, we are not saying the Claimant here did anything disqualifying that caused him to go back to part-time. But when claims follow the pattern found in this case, the system automatically requires additional information so the agencies can further assess what is going on. This is why a claim series is closed after consecutive weeks of exceeding the earning limit, but it has nothing to do with *why* we ruled the way we have today.

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Ashley R. Koopmans

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James M. Strohman

