

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANNA M KOPF**  
Claimant

**APPEAL NO. 09A-UI-09612-CT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MUSCATINE COMM SCHOOL DIST**  
Employer

**OC: 05/17/09**  
**Claimant: Appellant (4-R)**

Section 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

Anna Kopf filed an appeal from a representative's decision dated June 23, 2009, reference 01, which denied benefits on a finding that she was working sufficient hours to be considered employed. After due notice was issued, a hearing was held by telephone on July 21, 2009. Ms. Kopf participated personally. The employer participated by Debbie Ferreira, Assistant Human Resources Director.

**ISSUE:**

At issue in this matter is whether Ms. Kopf has satisfied the availability requirements of the law since filing her claim for job insurance benefits effective May 17, 2009.

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Kopf has been employed by the Muscatine Community School District since August 18, 2008. She was hired to work three hours a day for five days a week in food service. In September of 2008, she assumed additional duties as a substitute custodian. She worked 40 hours each week as a custodian. The school year ended on June 8, 2009. Ms. Kopf last performed duties as a custodian on June 10, 2009.

Ms. Kopf was hired to work on the summer food service program from June 15 through July 31. She works 2.5 hours each of five days per week. She is expected to resume working three hours each day in food service when school starts in August of 2009. On July 15, she began an additional part-time job where she works from 16 to 20 hours each week.

**REASONING AND CONCLUSIONS OF LAW:**

In order to receive job insurance benefits, an individual must be available for work. Iowa Code section 96.4(3). When Ms. Kopf filed her claim for job insurance benefits effective May 17, 2009, she was still working both her custodial job and her food service job with the school district. Since the two jobs provided a total of at least 40 hours, she was not entitled to job

insurance benefits. Because she was working full time, she was not in the labor market and, therefore, was not available for other work. See 871 IAC 24.23(23).

Ms. Kopf was no longer working her custodial position and regular food service job as of the week ending June 13. As of June 15, she was only working 12.5 hours each week in the summer food program. Because she remained available to work the same number of hours she had been working, she was available for work within the meaning of the law. On July 15, Ms. Kopf began working additional hours in a second job. When combined with her food service hours, she works from 28.5 to 32.5 hours each week. The administrative law judge concludes that this is a sufficient number of hours for her to be considered employed.

For the reasons cited herein, the administrative law judge concludes that Ms. Kopf was available for work within the meaning of the law from June 7 through July 11, 2009. As such, benefits are allowed for these weeks. It is noted that these five weeks are the only weeks claimed where her wages were low enough that she would be eligible to receive benefits.

The fact that Ms. Kopf is a school employee claiming benefits between academic years raises the issue of whether she had reasonable assurance of continued employment with the school district. This issue has not been adjudicated by Workforce Development. Therefore, the issue shall be remanded to Claims to determine whether wage credits earned with the school district may be used on the claim.

**DECISION:**

The representative's decision dated June 23, 2009, reference 01, is hereby modified. Ms. Kopf satisfied the availability requirements of the law from June 7 through July 11, 2009. Benefits are allowed for this period, provided she is otherwise eligible. This matter is remanded to Claims to determine if she had reasonable assurance of continued employment with the school district such that she would be precluded from using wage credits earned in school employment.

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Carolyn F. Coleman  
Administrative Law Judge

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Decision Dated and Mailed

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