

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHELLE RECTOR
Claimant

APPEAL NO: 15A-UI-13297-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

RGIS LLC
Employer

OC: 11/08/15
Claimant: Appellant (2)

Section 96.4-3 – Able and Available for Work
Section 96.4-3 – Same Hours and Wages

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 30, 2015, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on December 21, 2015. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

ISSUE:

The issue is whether the claimant is still employed with the employer for the same hours and wages as contemplated in the original contract of hire.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a part-time inventory specialist for RGIS December 23, 2014, continues to be employed in that capacity. She has averaged 15 hours per week since her date of hire but beginning the second week in November 2015 her hours dropped to five per week due to a lack of work and this being the employer's slow period. The claimant is able and available for work.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not still employed at the same hours and wages as contemplated in the original contract of hire.

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.

The claimant was hired as a part-time inventory specialist. There has been no separation from her part-time employment but the claimant is not currently working for this employer at the same hours and wages as contemplated in the original contract of hire. Her hours have been cut by two-thirds because this is the employer's slow time of the year. Consequently, the administrative law judge concludes the claimant is not still employed at the same hours and wages. Therefore, she is eligible for partial unemployment insurance benefits, provided she is otherwise eligible.

DECISION:

The November 30, 2015, reference 01, decision is reversed. The claimant is not employed at the same hours and wages as in her original contract of hire at this time and therefore is qualified for partial benefits based on her part-time employment effective the week ending November 14, 2015.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs