

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MELISSA CASTRO

Claimant

APPEAL NO. 10A-UI-00769-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**DESIGNER SUITES INC
DESIGNER INN & SUITES**

Employer

**Original Claim: 11/29/09
Claimant: Respondent (2)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Designer Inn & Suites (employer) appealed a representative's January 7, 2010 decision (reference 01) that concluded Melissa Castro (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 25, 2010. The claimant did not provide a telephone number where she could be reached and, therefore, did not participate. The employer participated by Sally Strobusch, Owner.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant worked for the employer from July 11 through October 27, 2007. The employer rehired the claimant on February 16, 2008, and she is still employed as a part-time housekeeper. She is consistently scheduled for thirteen or more hours per week. The claimant has chosen not to work all scheduled hours. She filed for unemployment insurance benefits with an effective date of November 29, 2009, after receiving incorrect information from an acquaintance about her eligibility.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 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 worker and is still working part-time for the employer. At the claimant's request, her hours were reduced. She was still employed in a part-time position as was agreed to at the time she was hired. The claimant is disqualified from receiving unemployment insurance benefits because the reduction in hours was not initiated by the employer.

DECISION:

The representative's January 7, 2010 decision (reference 01) is reversed. The claimant is disqualified from receiving unemployment insurance benefits because she reduced her hours and was not available for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw