

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

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SIOUX CITY IA 51103

SECURITAS SECURITY SERVICES USA  
c/o SHEAKLEY UNISERVICE INC  
PO BOX 429503  
CINCINNATI OH 45242

Appeal Number: 04A-UI-00324-LT  
OC 11-16-03 R 01  
Claimant: Respondent (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.4-3 - Able and Available  
Section 96.19-38-a & b – Total and Partial Unemployment

STATEMENT OF THE CASE:

Employer filed a timely appeal from the December 30, 2003, reference 03, decision that allowed benefits. After due notice was issued, a hearing was held on February 4, 2004. Claimant did participate. Employer did participate through Jim Buser and was represented by Terry Clayton of Sheakley Uniservice.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is employed as a security guard through Securitas at various locations.

The claimant currently works at the skywalk in downtown Sioux City three days a week at \$6.25 per hour from 2:00 p.m. to 10:00 p.m. She was last assigned at Mid-America full-time plus overtime at \$7.00 per hour from midnight to 8:00 a.m. weekdays. A hand scanner was installed but did not work properly. Claimant's job was to ask for the person's name, company and social security number when the scanner did not work. One person refused to give her the required information and claimant did not allow him to enter. He complained and claimant was removed from the assignment on October 14.

Effective October 14, 2003, the employer did not have full time work available for the claimant as contemplated in the original contract of hire or the last assignment. She also worked another job as a cocktail waitress every other Wednesday from 6:00 p.m. through 11:30 p.m. and Fridays from 6:30 p.m. to midnight. Her rate of pay there is \$7.00 per hour plus tips. She had this job when she was hired and her other employment and child visitation did not interfere with her assignments until the skywalk assignment. She had worked at full time assignments through Securitas until the skywalk job.

#### REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed.

Iowa Code Section 96.19-38 provides:

"Total and partial unemployment".

- a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.
- b. An individual shall be deemed partially unemployed in any week in which, while employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

An individual shall be deemed partially unemployed in any week in which the individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

- c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Claimant should not have to quit her other long-standing job with better wages or her child visitation to accommodate a lower paying job in the skywalk with Securitas after it changed her regular job without fault of claimant. Because claimant is currently employed less than her regular full-time hours, she is considered partially unemployed. Benefits are allowed. Inasmuch as employer is not offering the same wages and hours as contemplated in the

contract of hire (her employment history with Securitas), it is liable for benefit charges to its account.

DECISION:

The December 30, 2003, reference 03, decision is affirmed. The claimant is partially unemployed and benefits are allowed, provided she is otherwise eligible. The account of employer, Securitas, shall be liable for charges.

dml/kjf