

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JANET J GOLDBERG

Claimant

APPEAL NO. 09A-UI-10822-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MAHARISHI UNIVERSITY OF MGMT

Employer

OC: 06/14/09

Claimant: Respondent (2)

Section 96.4(3) – Able and Available

Section 96.3(7) – Recovery of Overpayments

STATEMENT OF THE CASE:

Maharishi University of Management filed an appeal from a representative's decision dated July 23, 2009, reference 01, which allowed benefits to Janet Goldberg but denied the employer relief from benefit charges. After due notice was issued, a hearing was held by telephone on August 13, 2009. Ms. Goldberg participated personally. The employer participated by Stan Lamothe, Human Resources Director. Exhibit One was admitted on the employer's behalf.

ISSUE:

At issue in this matter is whether Ms. Goldberg is partially unemployed within the meaning of the law.

FINDINGS OF FACT:

Having heard the testimony and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Goldberg's last period of employment with Maharishi University of Management began in February of 2007. She was hired to work 30 hours each week as a timer and administrative assistant. However, she was working substantially more hours, which required the employer to pay overtime. Beginning in January of 2009, the employer limited Ms. Goldberg to working four hours each day, four days a week, as a timer. The limitation was imposed in order to avoid overtime, which was never guaranteed.

In February of 2009, Ms. Goldberg's wages as an administrative assistant were reduced from \$10.00 to \$9.00 per hour. The number of hours she worked each week as an administrative assistant did not change. Ms. Goldberg averaged slightly over 64 hours per two-week pay period beginning with the period ending January 11, 2009. This average includes both the timer and administrative assistant hours.

Ms. Goldberg filed a claim for job insurance benefits effective June 14, 2009. She has received a total of \$1,592.00 in benefits since filing the claim.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether Ms. Goldberg is partially unemployed. There seems to be no dispute that she is working fewer hours than she had in the past. However, she is not working fewer hours than she was hired to work. She testified that she was hired to work 30 hours each week. Since the employer took steps to eliminate overtime, she has averaged at least 64 hours per two-week pay period, or 32 hours per week. Because there was no guarantee of overtime hours, the employer was under no obligation to continue providing such hours.

Inasmuch as Ms. Goldberg is not working fewer hours than she was hired to work, she is not partially unemployed within the meaning of the law. The administrative law judge appreciates that she also suffered a reduction in pay in February of 2009. She chose to remain in the employment in spite of the loss of \$1.00 per hour in her administrative assistant position. The change in pay would be a viable issue if she had left the employment because of it. However, the only issue before the administrative law judge is whether Ms. Goldberg is partially unemployed. The rate of pay is not a factor in that determination.

For the reason stated herein, it is concluded that Ms. Goldberg is not partially unemployed. As such, she is not entitled to job insurance benefits. She has received benefits since filing her claim. Based on the decision herein, the benefits received now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated July 23, 2009, reference 01, is hereby reversed. Ms. Goldberg is not entitled to job insurance benefits on her claim filed effective June 14, 2009 as she is not partially unemployed.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css