

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CURTIS E BETTS**

Claimant

**APPEAL NO: 10A-UI-16082-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LABOR READY MIDWEST**

Employer

**OC: 09/26/10**

**Claimant: Respondent (4)**

871 IAC 23.43(4) – Supplemental Employment

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's November 9, 2010 determination (reference 01) that held the claimant qualified to receive benefits and the employer's account subject to charge because the claimant's employment separation was for nondisqualifying reasons. The claimant did not respond to the hearing notice or participate in the hearing. Michael Niolosi, the branch manager, appeared on the employer's behalf. Based on the evidence, the arguments of the employer, and the law, the administrative law judge finds the claimant is qualified to receive benefits, but the employer's account is not subject to charge because this is supplemental employment.

**ISSUES:**

Is the claimant eligible to receive benefits based on this employment?

Is the employer's account subject to charge?

**FINDINGS OF FACT:**

The employer is a day labor staffing firm. The claimant registered to work for the employer in October 2003. The employer knows the claimant has a full-time job and contacts the employer for work when he is laid off from his full-time job.

The claimant established a claim for benefits during the week of September 26, 2010. The last day the claimant worked for the employer during this week was September 29, 2010. The claimant completed a one-day job assignment. When the claimant is again laid off, in a few months he will again contact the employer for a day labor job.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant who has been separated with cause attributable to his regular employer and who remains in the employment of a part-time base period employer, continues to be eligible for benefits as long as he receives the same employment from the part time employer that he had

during his base period. The part-time employer's account may be relieved of charges during the first benefit year. 871 IAC 23.43(4).

The claimant has worked for the employer in the same manner that he has always worked for the employer. He works when he is laid off from his full-time regular employer. Typically, the claimant works a day or two when he is laid off from his regular employer and then a few months later contacts the employer again for another day labor assignment. The facts establish the employer provides the claimant supplemental employment. As a result of this arrangement, the employer's account is not subject to charge.

**DECISION:**

The representative's November 9, 2010 determination (reference 01) is modified in the employer's favor. The claimant only works for the employer when he is laid off from his regular full-time employer. Therefore, the employer provides supplemental employment to the claimant. The claimant is eligible to receive benefits based on his employment with the employer, but the employer's account will not be charged during this benefit year.

---

Debra L. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

dlw/css