

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**DEBRA L REINHOLTZ**  
Claimant

**GOOD SAMARITAN SOCIETY INC**  
Employer

**APPEAL NO: 20A-UI-10471-JE-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/26/20**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available for Work  
871 IAC 24.23(26) – Same Hours and Wages

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the July 20, 2020, 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 October 15, 2020. The claimant participated in the hearing. The employer did not respond to the hearing notice and did not participate in the hearing.

**ISSUE:**

The issues are whether the claimant's appeal is timely and whether she 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: A disqualification decision was mailed to the claimant's last known address of record on July 20, 2020. The claimant received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by July 30, 2020. The appeal was not filed until August 25, 2020, which is after the date noticed on the disqualification decision. The claimant testified she sent her appeal to the Department in a timely manner but did not receive a response and consequently sent it again August 25, 2020. Under these circumstances, the administrative law judge finds the claimant's appeal is timely.

The claimant was hired as a part-time PRN CNA for Good Samaritan Society in July 2018, and continues to be employed in that capacity with no change in her hours or wages. The employer had less hours available due to Covid-19 and the full-time employees were given priority for those hours. The claimant was not guaranteed a certain number of hours by the employer but rather picks up hours as available.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is still employed at the same hours and wages as contemplated in her original contract of hire.

Iowa Code section 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 PRN CNA. There has been no separation from her PRN employment and the claimant is currently working for this employer at the same hours and wages as contemplated in the original contract of hire as she was not guaranteed a certain number of hours. For that reason, while the claimant was not working as many hours as she usually worked, she cannot be considered partially unemployed. Therefore, the claimant is disqualified from receiving state unemployment benefits based on her part-time employment.

**DECISION:**

The July 20, 2020, reference 01, decision is affirmed. The claimant is still employed at the same hours and wages as in her original contract of hire and therefore is not qualified for benefits based on her part-time, PRN employment. The employer's account is not subject to charge based on the claimant's part-time employment.



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Julie Elder  
Administrative Law Judge

October 20, 2020  
Decision Dated and Mailed

je/mh

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.