

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOEY STOVALL**  
Claimant

**APPEAL NO: 10A-UI-16316-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TUESDAY MORNING INC**  
Employer

**OC: 10/17/10**  
**Claimant: Appellant (2)**

871 IAC 24.23(26) – Part Time Employment and Eligibility for Partial Benefits

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's November 22, 2010 determination (reference 01) that held the claimant ineligible to receive benefits as of October 23, 2010, because he was still working part time for the employer at the same hours and wages that were agreed upon when he began working. The claimant participated in the hearing. Stephanie Williams, the manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant is eligible to receive partial unemployment insurance benefits, but the employer's account will not be charged.

**ISSUE:**

Is the claimant eligible to receive partial benefits when he continues to work for the employer, but established a claim after he was laid off from two other employers?

**FINDINGS OF FACT:**

The employer hired the claimant in 2008 to work part time, around 15 hours a week. As of the date of the hearing, the claimant still works part time for the employer. His hourly wage was increased from \$8.00 an hour to \$8.25 an hour in August 2010.

In addition to working for the employer, the claimant also worked for two other employers in his base period. He worked for ACT, Inc. during the second and third quarters of 2010. He worked for NCS Pearson the second and third quarters of 2010.

The claimant established a claim for benefits during the week of October 17, 2010, after he was laid off or his employment ended with ACT, Inc. and NCS Pearson.

**REASONING AND CONCLUSIONS OF LAW:**

Where a claimant is still employed in a part-time job at the same hours and wages as contemplated when he accepted employment, the claimant is not eligible to receive benefits if he is not working a reduced workweek because he cannot be considered partially unemployed. 871 IAC 24.23(26). This regulation applies when the part-time job is the only employer the

claimant has in his base period. In this case, the claimant did not establish a claim for benefits until he was laid off from two other jobs, ACT, Inc. and NCS Pearson. Under these facts, the claimant is eligible to receive partial benefits. Since he is not working a reduced workweek for the employer, the employer's account will not be charged.

**DECISION:**

The representative's November 22, 2010 determination (reference 01) is reversed. The claimant is partially unemployed because he did not establish a claim for benefits until he was laid off from two other jobs. The claimant is eligible to receive partial benefits for any week he does not have excessive earnings. The employer's account will not be charged since the claimant continues to work the same number of hours that he was hired to work.

---

Debra L. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

dlw/css