

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

JUAN A MORALES
Claimant

APPEAL NO. 17A-UI-05206-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

B P ENTERPRISES INC
Employer

**OC: 04/16/17
Claimant: Respondent (2)**

Iowa Code § 96.4(3) – Able and Available
871 IAC 24.23(26) – Part-Time Worker – Able and Available

STATEMENT OF THE CASE:

B. P. Enterprises (employer) appealed a representative's May 9, 2017, decision (reference 02) that concluded Juan Morales (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 2, 2017. The claimant participated personally. The employer participated by Bradley Krause, Owner.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable for work. .

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired in February 2014, as a full-time detail person. The claimant quit work in April 2015, to take a full-time position at OSI. Every so often the claimant would call the employer and offer to perform work and the employer would give the claimant some hours. The claimant last called the employer available April 12 to 18, 2017. The claimant worked about twenty-eight hours. He did not report his wages to the department. The claimant has not offered to work any other hours for the employer.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 part-time worker and but has not been available to work since April 18, 2017. The claimant is disqualified from receiving unemployment insurance benefits because he was not available for work during his employment.

DECISION:

The representative's May 9, 2017, decision (reference 02) is reversed. The claimant is disqualified from receiving unemployment insurance benefits as of April 16, 2017.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs