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

PATRICIA A TICKAL
Claimant

APPEAL NO: 12A-UI-01332-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**ELSBECKER ENTERPRISES INC
THE OLIVE BRANCH**
Employer

OC: 11/20/11
Claimant: Respondent (4)

Section 96.19-38-b – Eligibility for Partial Unemployment Insurance Benefits
871 IAC 23.43(4)(a) – Charges for Partial Unemployment Insurance Benefits

STATEMENT OF THE CASE:

Elsbecker Enterprises, Inc. / The Olive Branch (employer)) appealed a representative's January 31, 2012 decision (reference 04) that concluded Patricia A. TIckal (claimant) was qualified to receive unemployment insurance benefits but did not address the employer's chargeability. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 28, 2012. The claimant participated in the hearing. Linda Elsbecker appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

FINDINGS OF FACT:

The claimant started working for the employer on February 23, 2010. As of February 28, 2012 she still worked part time on an on-call basis as a retail sales clerk. The claimant established an unemployment insurance benefit year effective November 20, 2011 after being laid off from work with another employer, Mason City Country Club. Her weekly benefit amount was calculated to be $73.00. She also had other part-time employment with a third employer. The claimant filed weekly claims for the four-week period beginning January 1 through January 28; during those weeks her wages from all employers were less than $88.00 per week. For those weeks she continued to work on her same on-call basis with this employer.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is eligible for partial unemployment insurance benefits and the employer's account is subject to charge. The unemployment insurance law provides that a claimant is deemed partially unemployment insurance benefits if she has been permanently or temporarily separated from one employer and earns less than her weekly benefit amount plus $15.00 in other employment. Iowa Code § 96.19-38-b; see also Iowa Code § 96.3-3.

If the claimant had other part-time employment during her base period and remains in that employment, she continues to be eligible for benefits as long as she is receiving the same employment from the part-time employer that she received during the base period. However, under those circumstances the part-time employer's account is relieved of benefit charges. 871 IAC 23.43(4)a.

The claimant was laid off from her regular part-time employer and continued to work for this part-time base period employer. The employer was providing the claimant with substantially the same employment as it provided during her base period. Consequently, the claimant is qualified to receive at least partial unemployment insurance benefits for the four-week period in question, provided she was otherwise eligible. To be eligible for benefits for any particular week, the claimant must file a weekly claim for that week reporting her wages from all employers earned (not paid) for that week; the amount of her eligibility will then be determined pursuant to the formula set out by the statute. 871 IAC 24.52(8); Iowa Code § 96.3-3.

Under rule 871 IAC 23.43(4)a the employer is exempt from charge for benefits paid to the claimant as long as it continues to provide the claimant with the same part-time employment it provided during her base-period.

DECISION:

The unemployment insurance decision dated January 31, 2012 (reference 04) is modified in favor of the employer. The claimant is eligible for partial unemployment insurance benefits, provided she is otherwise eligible, and the employer's account is exempt from charge for benefits paid to the claimant.

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Lynette A. F. Donner
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs