

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUANN L GRANDON
Claimant

APPEAL NO: 20A-UI-08184-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GRANDON ENTERPRISES INC
Employer

OC: 04/19/20
Claimant: Appellant (2)

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 16, 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 August 24, 2020. The claimant participated in the hearing. Joel Grandon, President, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant is still employed with the employer for the same hours and wages as contemplated in the original contract of hire.

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 as a part-time administrative assistant for Grandon Enterprises in 2000. She generally works 12:00 p.m. to 5:00 p.m. except during tax season when she works more hours. The claimant did not work from April 16 through April 30, 2020, because the workload was different than usual because of COVID-19.

The claimant's primary job is at St. Luke's Hospital as a secretary in the cardiology department. Her hours were reduced in that position due to COVID-19. She returned to working her regular hours August 1, 2020.

The claimant filed for unemployment insurance benefits with an effective date of April 19, 2020. Her weekly benefit amount was determined to be \$481.00. The claimant has received benefits in the amount of \$687.00 for the two weeks ending May 2, 2020. She also received \$1,200.00 in Federal Pandemic Unemployment Compensation for the two weeks ending May 6, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant was not employed at the same hours and wages as contemplated in the original contract of hire between April 16 and April 30, 2020.

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 part-time administrative assistant and was temporarily unemployed from April 16 through April 30, 2020. There has been no separation from her part-time employment and the claimant was not working for this employer at the same hours and wages as contemplated in the original contract of hire from April 16 through April 30, 2020. Benefits are allowed for the two-weeks ending May 2, 2020.

DECISION:

The July 16, 2020, reference 01, decision is reversed. The claimant was not employed at the same hours and wages as in her original contract of hire and therefore is eligible for benefits based on this part-time employment for the two weeks ending May 2, 2020, provided she is otherwise eligible.



Julie Elder
Administrative Law Judge

August 31, 2020
Decision Dated and Mailed

je/sam