

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TOM E RASK
Claimant

APPEAL NO: 11A-UI-03509-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ALLAMAKEE COUNTY
Employer

OC: 02/06/11
Claimant: Appellant (2)

Iowa Code § 96.4(3) – Availability for Work

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 10, 2011 determination (reference 01) that held him ineligible to receive benefits as of February 6, 2011, because he was still employed at the same hours and wages that he had been hired to work. The claimant participated in the hearing. Mike Gallagher, the department head, 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 eligible to receive partial benefits when he does not have excessive earnings.

ISSUE:

As of February 6, 2011, is the claimant working the same hours that he was hired to work or is he working reduced hours?

FINDINGS OF FACT:

The claimant started working for the employer in January 2009. The employer hired the claimant to work as a part-time temporary custodian. When the claimant was hired he worked 20 hours a week doing janitorial work.

In late January 2011, the employer reduced the claimant's hours to 15 hours a week because the employer needed more maintenance work done and only had 35 hours to schedule employees to work. After the claimant's hours were reduced to 15 hours a week, he established a claim for benefits. The employer was able to increase the claimant's hours to 17.5 hours a week in late March 2011.

REASONING AND CONCLUSIONS OF LAW:

When a claimant is still employed in a part-time job at the same hours and wages as hired and is not working a reduced workweek, the claimant cannot be considered partially unemployed. 871 IAC 24.23(26). In this case, the claimant still works part time for the employer, but his hours were reduced from 20 to 15 hours a week. As a result of working a reduced workweek, the claimant is eligible to receive partial benefits.

Since the claimant's maximum weekly benefits is \$151.00, any week he earns less than \$166.00, he is potentially eligible to receive partial unemployment insurance benefits.

DECISION:

The representative's March 10, 2011 determination (reference 01) is reversed. Even though the claimant continues to work part time, his hours were reduced. As of February 6, 2011, the claimant is eligible to receive partial benefits for any week in which he earns gross wages of less than \$166.00.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs