

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTOPHER J PARAM**  
Claimant

**APPEAL NO. 11A-UI-06062-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**COMCAST SPECTACOR LP ET AL  
GLOBAL SPECTRUM LP**  
Employer

**OC: 03/20/11  
Claimant: Appellant (1)**

Section 96.4-3 – Still Employed at Same Hours and Wages

**STATEMENT OF THE CASE:**

Claimant filed a timely appeal from an unemployment insurance decision dated April 25, 2011, reference 01, that concluded claimant was not eligible to receive unemployment insurance benefits because he was still employed with Global Spectrum LP working the same hours and wages as agreed upon in the original contract of hire and the claimant therefore could not be considered to be partially unemployed. After due notice was issued, a telephone hearing was held June 2, 2011. The claimant participated personally. The employer participated by Ms. Diane Frischmeyer, Director of Finance.

**ISSUE:**

The issue is whether the claimant is disqualified for being unavailable for work due to being employed at the same hours and wages as contemplated in the original agreement of hire.

**FINDINGS OF FACT:**

The administrative law judge having considered the evidence in the record, the administrative law judge finds: The claimant was hired on October 23, 2008 as a part-time on-call building attendant. Mr. Param worked as needed, on call performing building attendant services at athletic events. At the time of hire the claimant was not guaranteed any minimum number of working hours each week and was hired at the rate of \$8.75 per hour. At the time of hearing Mr. Param continues to be employed on call, part time and is paid at a higher rate per hour. Due to slow business conditions there are times when the claimant is not called in for work some weeks.

The claimant filed a claim for unemployment insurance benefits with an effective date of March 20, 2011 when his hours declined. The claimant understood at the time of hire that his hours would fluctuate and that his employment was event based.

**REASONING AND CONCLUSIONS OF LAW:**

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".

871 IAC 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 on-call, worker at the rate of \$8.75 per hour. The claimant is still working part time, on call for this employer. He is still employed in a part-time, on-call position as agreed upon at the time that he was hired and understood at the time hire that his hours depended upon the event schedule. That has not changed. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work due to his work with the employer.

**DECISION:**

The unemployment insurance decision dated April 25, 2011, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because he is not available for work as he is still employed on call or part time working the same hours and wages as agreed at the time of hire.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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