

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TODD A GRUETZMACHER**  
Claimant

**APPEAL NO. 13A-UI-05840-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**B & D SERVICES INC**  
Employer

**OC: 04/07/13**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Todd Gruetzmacher (claimant) appealed a representative's May 10, 2013 decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits because he was still employed with B & D Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 24, 2013. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

**ISSUE:**

The issue is whether the claimant is able and available 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 worked for the employer from November 7, 2012, to May 25, 2013, as a part-time personal assistant. The claimant's hours ranged from 15 to 37 hours per week.

In March 2013, the claimant told the employer he wanted to be trained for a new occupation. The claimant took classes at Northeast Iowa Community College from March 25 through March 29, 2013, from 8:00 a.m. to 4:30 p.m. During this time he could not work. The employer complied with the claimant's request to not be scheduled.

The claimant continued to work part-time hours but he thought the employer reduced his hours so he filed for unemployment insurance benefits with an effective date of April 7, 2013. For the week ending April 13, 2013, the claimant worked 16 hours. For the week ending April 20, 2013, the claimant worked 6 hours. The claimant took classes at Northeast Iowa Community College from April 29 through May 29, 2013, from 4:30 p.m. to 8:30 p.m. on Monday and Wednesday. During this time it interrupted the shifts he could work and reduced his hours. The employer complied with the claimant's request for altered shifts. For the week ending April 27, 2013, the claimant worked 8 hours. For the week ending May 4, 2013, the claimant worked 21 hours. For the week ending May 11, 2013, the claimant worked 26 hours. For the week ending May 18,

2013, the claimant worked no hours. For the week ending May 25, 2013, the claimant worked 15 hours. On May 30, 2013, the claimant took a new job at Larson Contracting.

**REASONING AND CONCLUSIONS OF LAW:**

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 worker and is still working part time for the employer. He asked that those part-time hours be changed so that he could attend school and the employer complied. The change in hours was initiated by the claimant. He was still employed in a part-time position as was agreed to at the time he was hired. The claimant is disqualified from receiving unemployment insurance benefits because he was not available for work.

**DECISION:**

The representative's May 10, 2013 decision (reference 02) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because he was not available for work with the employer.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/css