

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANTHONY C BAYLARK**  
Claimant

**APPEAL NO. 11A-UI-04610-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**TEAM STAFFING SOLUTIONS INC**  
Employer

**OC: 10/10/10  
Claimant: Appellant (1)**

Section 96.4-3 – Eligibility for Benefits

**STATEMENT OF THE CASE:**

Anthony C. Baylark filed a timely appeal from an unemployment insurance decision dated April 5, 2011, reference 08, that denied unemployment insurance benefits to him upon a finding that he was still employed under the same conditions as when he was hired. After due notice was issued, a telephone hearing was held May 4, 2011 with Mr. Baylark participating. Claims Administrator Sarah Fiedler participated for the employer, Team Staffing Solutions, Inc.

**ISSUE:**

Is the claimant eligible to receive unemployment insurance benefits effective March 6, 2011?

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Anthony C. Baylark has been employed by Team Staffing Solutions, Inc. on assignment with Winegard since November 3, 2010. He received unemployment insurance benefits for the week ending December 25, 2010 because he was laid off. He is not guaranteed any particular number of hours. The decision on appeal denies unemployment insurance benefits effective March 6, 2011.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the claimant is eligible for unemployment insurance benefits effective March 6, 2011. He is not.

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".

The first element of eligibility for unemployment insurance benefits is being unemployed, either totally or partially. The evidence in the record establishes that Mr. Baylark has been employed continuously since March 3, 2011. His hours fluctuate as they have since the time he was hired. The administrative law judge concludes that Mr. Baylark does not meet the definition of being unemployed. Benefits are withheld.

**DECISION:**

The unemployment insurance decision dated April 5, 2011, reference 08, is affirmed. The claimant is ineligible for unemployment insurance benefits effective March 6, 2011.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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