

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KARYN K FINN
Claimant

APPEAL NO. 13A-UI-09192-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXCEPTIONAL PERSONS INC
Employer

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

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Karyn Finn (claimant) appealed a representative's July 30, 2013, decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she is still employed in her job with Exceptional Persons (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 18, 2013. The claimant participated personally. The employer participated by Lisa Paterno, Human Resource Director; Sarah Boleyn, Child Care Consultant Supervisor; and Mary Janssen, Director. The employer offered and Exhibit One was received into evidence.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable 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 was hired on September 19, 2011, as a full-time health and safety consultant. On January 15, 2013, the claimant requested in a letter that her hours be reduced to 20 hours per week from 30 hours per week or she would resign. The employer complied. The letter did not indicate that the reduction in hours was temporary. In April and May 2013, the claimant discussed her hours with her supervisor. It was not clear to the employer that the claimant was asking to increase her hours. In June 2013, the employer and claimant talked about the claimant's hours and the upcoming 2014 fiscal year funding situation. The employer told the claimant that her hours would remain at 20 per week because of funding considerations.

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 full-time worker. She asked that those full-time hours be reduced and the employer complied. The change in hours was initiated by the claimant. The claimant is still employed in a part-time position as was agreed to in January 2013. The claimant is disqualified from receiving unemployment insurance benefits because she is still employed in her job at the hours she last negotiated. She is not partially unemployed

DECISION:

The representative's July 30, 2013, decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she is still employed in her job at the hours she last negotiated. She is not partially unemployed

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css