

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

IRMA C CASTRO CASTILLO
Claimant

APPEAL NO. 14A-UI-00087-VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

KINSETH HOTEL CORPORATION
Employer

OC: 01/06/13
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated December 24, 2013, reference 01, which held that the claimant was ineligible for unemployment insurance benefits. After due notice, a hearing was held on January 28, 2014. The claimant participated personally. The employer participated by Dave Davis. Tim Lloyd served as employer representative. The record consists of the testimony of Irma Castro Castillo; the testimony of Dave Davis; and Claimant's Exhibit A. Ike Rocha served as Spanish interpreter for the claimant.

ISSUE:

Whether the claimant is eligible for partial unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The employer operates two hotels in Coralville, Iowa. The claimant was hired in 2000. She is still employed by the employer. She is a housekeeper. The number of hours that the claimant receives per week is dependent on the number of rooms that have been sold. During December 2013, the employer had lower occupancy rates and so the claimant did not have as many hours. The claimant was not guaranteed any certain number of hours per week when she was hired and the assignment of hours has not changed since she was hired in 2000.

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 is not eligible for partial unemployment insurance benefits. The claimant is still employed by the employer. She applied for unemployment benefits in December 2013, but her hours were fewer than she had been accustomed to working. The evidence showed that the claimant's hours have always been dependent on the number of rooms sold. The employer had fewer rooms sold in December 2013 and therefore the claimant had fewer hours. There is no evidence that there has been a change in the contract of employment. The claimant is still working the same hours and wages in the contract of employment. She is therefore not eligible for partial unemployment insurance benefits.

DECISION:

The decision of the representative dated December 24, 2013, reference 01, is affirmed. Unemployment insurance benefits are denied as of December 1, 2013.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/pjs