

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CHRISTINE A GRIMES**  
Claimant

**APPEAL NO. 10A-UI-13889-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CHARITON COMMUNITY  
SCHOOL DISTRICT**  
Employer

**OC: 08-22-10**  
**Claimant: Respondent (4)**

Iowa Code § 96.4(3) – Able and Available  
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment  
871 IAC 24.22(2)f – Part-Time Worker - Able and Available

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the October 5, 2010, reference 01, decision that allowed benefits and charged the employer's account. After due notice was issued, a hearing was held on November 17, 2010. The claimant did participate. The employer did participate through Kelly Reece, Board Secretary/Business Manager.

**ISSUE:**

Is the claimant able to and available for work with this employer or is she partially unemployed?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is employed as a substitute teacher working on-call when needed for this employer. She has other full-time wages in her base period from her work with the US Census that was not from on-call work. The claimant worked for the US Census from March 2010 through August 2010. When she was laid off from the US Census, she applied for unemployment insurance benefits.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed and the on-call employer is relieved of benefit charges.

871 IAC 24.52(10) states: Substitute teachers.

- a. Substitute teachers are professional employees and would therefore be subject to the same limitations as other professional employees in regard to contracts, reasonable

assurance provisions and the benefit denials between terms and during vacation periods.

b. Substitute teachers who are employed as on-call workers who hold themselves available for one employer and who will not search for or accept other work, are not available for work within the meaning of the law and are not eligible for unemployment insurance payments pursuant to subrule 24.22(2)"i"(1).

c. Substitute teachers whose wage credits in the base period consist exclusively of wages earned by performing on-call work are not considered to be unemployed persons pursuant to subrule 24.22(2)"i"(3).

d. However, substitute teachers engaged in on-call employment are not automatically disqualified but may be eligible pursuant to subrule 24.22(2)"i"(3) if they are:

(1) Able and available for work.

(2) Making an earnest and active search for work each week.

(3) Placing no restrictions on their employability.

(4) Show attachment to the labor market. Have wages other than on-call wages with an educational institution in the base period.

e. A substitute teacher who elects not to report for further possible assignment to work shall be considered to have voluntarily quit pursuant to subrule 24.26(19).

Because the claimant has other base-period wages in her base period that are from work other than on-call substitute teaching, she is considered partially unemployed. Partial benefits are allowed. Inasmuch as the current on-call employer is offering the same wages and hours as in the base period, no benefit charges shall be made to its account.

**DECISION:**

The October 5, 2010, reference 01, decision is modified in favor of the appellant. The claimant is partially unemployed and benefits are allowed, provided she is otherwise eligible. The account of the current on-call employer (account number 102721) shall not be charged.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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