

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 06A-UI-04614-SWT
OC: 04/02/06 R: 03
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 - Able to and Available for Work
Section 96.19-38-b - Eligibility for Partial Unemployment Insurance Benefits

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 26, 2006, reference 01, that concluded the claimant was ineligible to receive partial unemployment insurance benefits and the employer's account was chargeable for benefits paid to the claimant since her hours and/or wages had not been reduced. A telephone hearing was held on May 15, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. Caren Luttenegger participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant started working part time for the employer as a cook on January 22, 2001. When she first began employment she was working five days per week, but she was never guaranteed a certain number of days or hours of work per week.

In September 2005, the claimant asked to have her schedule reduced to working three days per week because she had another job. Since that time the claimant has periodically requested additional hours and the employer has provided her with the hours it has available. In March 2005, the claimant worked five days per week for two weeks to fill in for an employee on medical leave, but returned to her regular schedule after the employee returned.

The claimant filed a new claim for unemployment insurance benefits with an effective date of April 2, 2006. Her weekly benefit amount was determined to be \$114.00. The claimant has had only one week (week ending April 15) when her earnings were less than her earnings limit of \$129.00.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was eligible for partial unemployment insurance benefits effective April 2, 2006.

Iowa Code section 96.3-3 provides:

3. Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.19, subsection 38, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

Iowa Code section 96.19-38-b provides in part:

b. An individual shall be deemed partially unemployed in any week in which, while employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

The preponderance of the evidence establishes that the claimant was not partially unemployed since she requested a reduction in her schedule in September 2005 and the employer has provided her with at least three days of work per week since then. The fact that the employer will not increase the claimant's schedule after she requested the reduction does not make the claimant eligible for unemployment insurance benefits.

DECISION:

The unemployment insurance decision dated April 26, 2006, reference 01, is affirmed. The claimant is not qualified to receive unemployment insurance benefits.

saw/pjs