

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DORIS L LOVELETT
Claimant

APPEAL NO. 08A-UI-07626-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PRINCIPAL LIFE INSURANCE CO
Employer

OC: 06-15-08 R: 03
Claimant: Respondent (2)

Section 96.4-3 – Able and Available
871 IAC 24.23(26) – Same Hours and Wages

STATEMENT OF THE CASE:

The employer filed a timely appeal from the August 13, 2008, reference 02, decision that allowed benefits. After due notice was issued, a hearing was held on September 8, 2008. The claimant did not participate. The employer did participate through Barbara Snobl, Health Care Manager Mentor.

ISSUE:

Is the claimant employed at the same hours and wages as at the time of hire?

FINDINGS OF FACT:

Having reviewed the testimony and all of the evidence in the record, the administrative law judge finds: Claimant was employed as a UM support technician part-time beginning August 1, 1994 through date of hearing as she remains employed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

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".

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's hours of work have not changed. She is still being offered the same hours and wages. The office was closed for one day, June 13, but the claimant was paid her regular wages for that day. The claimant is still employed at the same hours and wages. Thus, she is not considered as able to and available for work. Accordingly, benefits are denied.

DECISION:

The August 13, 2008, reference 02, decision is reversed. The claimant is not able to work and available for work effective June 15, 2008. Benefits are denied. Inasmuch as no benefits were claimed and no benefits were paid, no overpayment exists.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css