

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ANTHONY J PARKER
Claimant

APPEAL NO. 11A-UI-01293-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

TOTAL DETAILING AUTO SPA LLC
Employer

OC: 12/19/10
Claimant: Respondent (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The employer appealed a department decision dated January 25, 2011, reference 01, that held the claimant was eligible for benefits effective December 19, 2010, as he is still employed part-time, on-call whenever work is available. A telephone hearing was held on March 2, 2011. The claimant participated. Tim Lofgren, Owner/Manager, participated for the employer.

ISSUE:

Whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant has worked a full-time schedule in the detail and wash departments for his employer from August 1, 2008 to the filing of his claim. The employer moved the claimant to the wash department in December due to the weather conditions that slowed the detail work.

Claimant filed a claim for the week ending December 25, 2010 due to working reduced hours. Claimant reported gross earnings of \$267.00 and he received a partial benefit of \$60.00. Although claimant filed some additional weekly claims in January 2011, his reported earnings were excessive and he received no benefit. The employer recorded claimant worked 22.6 hours both in the detail and wash departments for the week ending December 25. Claimant worked all hours made available by the employer.

REASONING AND CONCLUSIONS OF LAW:

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".

The administrative law judge concludes that the claimant is eligible for partial benefits the week ending December 25, 2010, as he was able and available for work.

The claimant has worked a pattern of employment of full-time hours. He works primarily in the detail department until weather conditions slow that work and he is shifted to the wash department. This occurred in December and claimant filed a benefit claim due to working reduced hours for the week ending December 25. He is eligible for a partial benefit this week.

DECISION:

The department decision dated January 25, 2011, reference 01, is affirmed. The claimant is eligible for benefits the week ending December 25, 2010, as he was able and available for work.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw