

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MONICA Y HATCHER
Claimant

APPEAL NO. 11A-UI-05486-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

GORDMANS INC
Employer

OC: 02/13/11
Claimant: Appellant (1)

Section 96.4-3 – Eligibility for Benefits

STATEMENT OF THE CASE:

Monica Y. Hatcher filed a timely appeal from an unemployment insurance decision dated April 13, 2011, reference 01, that held that she was ineligible for unemployment insurance benefits. After due notice was issued, a telephone hearing was held May 19, 2011 with Ms. Hatcher participating. Operations Manager John Stuckenschinder testified for the employer, Gordmans, which was represented by David Williams of TALX UC eXpress.

ISSUE:

Is the claimant eligible for unemployment insurance benefits?

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Monica Y. Hatcher has been an employee of Gordmans, Inc. since September 2008. She currently works one four-hour shift per week. After her hours were reduced in early 2010, Ms. Hatcher returned to school. She is now a full-time student and is unable to work additional hours because of her school schedule. She turned down an offer of additional hours in late 2010 for this reason.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence establishes that Ms. Hatcher is eligible for unemployment insurance benefits at this time. It does not.

Iowa Code § 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".

In matters of basic eligibility, the claimant has the burden of proof. See Iowa Code § 96.6-2. The parties disagree as to whether Ms. Hatcher's hours were initially reduced at her request or at the employer's initiative. The administrative law judge concludes that it is not necessary to resolve that factual dispute. The parties agree that Ms. Hatcher declined an offer of additional hours in December 2010. She testified at the hearing that she could not work more hours at this time because of her school schedule. The administrative law judge concludes that Ms. Hatcher does not meet the eligibility requirement of being available for work. Benefits are withheld.

DECISION:

The unemployment insurance decision dated April 13, 2011, reference 01, is affirmed. The claimant is ineligible to receive unemployment insurance benefits at this time.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs