

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-02066-SWT  
OC: 01/01/06 R: 02  
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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(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 February 8, 2006, reference 01, that concluded the claimant was ineligible to receive partial unemployment insurance benefits since her hours and/or wages had not been reduced. A telephone hearing was held on March 9, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. Kim Wolff participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant has worked part time for the employer as a server since January 2005. She filed a new claim for unemployment insurance benefits with an effective date of January 1, 2006, after being informed that she could receive benefits while attending school. The only change in the claimant's hours of work has been due to her school schedule. The employer has not

reduced number of hours the claimant works because of any lack of work. The claimant could be working at least 25 to 30 hours per week but is not doing so because she is a full-time student.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was eligible for partial unemployment insurance benefits effective January 1, 2006.

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.

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.

In this case, the claimant was not working on a reduced workweek basis different from her contract of hire and, therefore, cannot be considered partially unemployed. The only reduction the claimant's hours was due to her school schedule not any lack of work for the claimant. Unemployment insurance benefits are not intended to supplement a student's income when the claimant is not otherwise eligible to receive benefits.

#### DECISION:

The unemployment insurance decision dated February 8, 2006, reference 01, is affirmed. The claimant is ineligible to receive unemployment insurance benefits effective January 1, 2006. If the claimant believes circumstances have changed and this disqualification can be removed, she must contact her local Workforce Development Center and reopen her claim for unemployment insurance benefits.

saw/tjc