

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GENE A FROHLING

Claimant

APPEAL NO. 11A-UI-04884-M2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 01/02/11

Claimant: Appellant (2-R)

871 IAC 23.43(4)a – Supplemental Employment

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated April 6, 2011, reference 02, which held claimant not able and available for work due to being still employed. After due notice, a telephone conference hearing was scheduled for and held on May 10, 2011. Claimant participated personally. Employer participated by Kim Maxhimer, store manager.

ISSUE:

The issues are whether claimant is/was employed in supplemental employment.

FINDINGS OF FACT:

The claimant went to work for Casey's Stores as a part-time employee on or about March 10, 2010. Since he was on Department-Approved Training (DAT), he only wanted to work part-time as a supplement to unemployment while he went to school. The employer, Casey's, complied with his request and generally made sure that his work hours averaged about 20 hours per week. The claimant was not required to work while on DAT.

It appears the claimant may have separated from Casey's on or about May 7, 2011 for other employment.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 23.43(4)a provides in part:

(4) Supplemental employment.

a. An individual, who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer, continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges....

Claimant was working a supplemental part-time job while on DAT. He is eligible for benefits and the employer is relieved of charges based on this supplemental part-time employment.

DECISION:

The April 6, 2011, reference 02, decision is reversed and remanded. The claimant is eligible for benefits, provided he is otherwise eligible. The issue of a separation for other employment is remanded to claims for a determination.

Stan McElderry
Administrative Law Judge

Decision Dated and Mailed

srm/kjw