

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

ANTONIO D GALES
Claimant

APPEAL NO: 18A-UI-07955-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

VENUWORKS OF CEDAR RAPIDS LLC
Employer

OC: 07/01/18
Claimant: Respondent (2)

Section 96.4-3 – Able and Available for Work
Section 96.4-3 – Same Hours and Wages

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 20, 2018, reference 03, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on August 16, 2018. The claimant did not respond to the hearing notice and did not participate in the hearing or request a postponement of the hearing, as required by the hearing notice. Mitchell Davis, Human Resources Specialist and Casey McKinstrey, Human Resources Specialist, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant is still employed with the employer for the same hours and wages as contemplated in the original contract of hire.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant is an on-call, PRN employee with no set schedule or guarantee of hours as the employer sets up venues for various events in Cedar Rapids. He continues to be employed in that capacity with no change in his hours or wages. There is no evidence the claimant was laid off or separated from a full-time employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is still employed at the same hours and wages as contemplated in the original contract of hire.

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".

The claimant was hired as a part-time, on-call employee. There has been no separation from his part-time employment and the claimant is currently working for this employer at the same hours and wages as contemplated in the original contract of hire. The claimant is disqualified from receiving benefits based on this employment.

DECISION:

The July 20, 2018, reference 03, decision is reversed. The claimant is still employed at the same hours and wages as in his original contract of hire, and therefore is not qualified for benefits based on his part-time employment.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn