

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**FRANK C JACKSON**  
Claimant

**APPEAL NO. 08A-UI-08276-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**LINN-MAC INC  
MCDONALDS**  
Employer

**OC: 07/27/08 R: 03  
Claimant: Appellant (1)**

Section 96.4-3 – Employed At Same Hours and Wages

**STATEMENT OF THE CASE:**

Frank Jackson filed an appeal from a representative's decision dated September 12, 2008, reference 01, which denied benefits effective September 11, 2008, finding that the claimant was still employed at the same hours and wages in his original agreement of hire and, therefore, could not be considered to be partially unemployment. After due notice, a hearing was held by telephone on September 30, 2008. Mr. Jackson participated personally. The employer participated by Ms. Sharon Marshall, Manager.

**ISSUE:**

The issue in this matter is whether the claimant is still employed for the same hours and wages.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony and considered all of the evidence in the record, finds: The claimant began work for this employer on October 2007 and continues to be employed at the time of hearing. Mr. Jackson is employed as a part-time frontline crewmember and is paid by the hour. His immediate supervisor is Sharon Marshall. Mr. Jackson was hired on a part-time basis and was guaranteed no minimum hours of work each week. The claimant has limited his working hours with Linn-Mac Inc. during some weeks in order to make himself available for other employment. There has been no alteration of the original agreement of hire. The claimant is employed in the same manner and at the same wage as agreed.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence in the record establishes that Mr. Jackson continues to be employed at the same hours and wages as agreed in the original contract of hire. It does.

The evidence in the record establishes that the claimant continues to be employed at the time of hearing and there has been no alteration of the original agreement of hire. Mr. Jackson was

hired on a part-time basis and was guaranteed no minimum hours of work per week. The evidence in the record establishes that the claimant at times has limited his hours of availability to work for Linn-Mac Inc. because of his desire to work for another employer.

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.

For the reasons stated herein the administrative law judge concludes that the claimant cannot be considered partially unemployed and is not eligible to receive unemployment insurance benefits.

**DECISION:**

The representative's decision dated September 12, 2008, reference 01, is affirmed. The claimant is employed for the same hours and wages as in the original agreement of hire and cannot be considered to be partially unemployed. Benefits are denied as of September 11, 2008.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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