

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEFFERY NOLAN**  
Claimant

**APPEAL NO: 09A-UI-15147-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RIVERSIDE STAFFING SERVICES INC**  
Employer

**OC: 04/12/09**  
**Claimant: Respondent (1)**

Section 96.4-3 – Able to and Available for Work

**STATEMENT OF THE CASE:**

The employer appealed a representative's September 28, 2009 decision (reference 02) that concluded the claimant was eligible to receive benefits because he was not working the hours he had worked during his base period and the employer's account was subject to charge because of reduced hours. A hearing was held on November 10, 2009. The claimant participated in the hearing. Karrie Minch, a senior staffing associate, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

As of August 26, 2009, is the claimant working the same hours that he was working in his base period or had been hired to work?

Is the employer's account exempt from charge because the claimant still works the same hours that he worked during his base period or agreed to work when hired?

**FINDINGS OF FACT:**

After the claimant was removed from an assignment on August 27, 2009, the employer did not have another job to assign to him. The claimant has not worked another job assignment for the employer since August 27, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4-3. Where a claimant works a part-time job at the same hours and wages as contemplated in the original contract of hire and IS NOT WORKING on a reduced workweek basis different from the contract for hire, the claimant is not considered partially unemployed and is not eligible to receive benefits. 871 IAC 24.23(26). The claimant's employment does not really fit this regulation. The claimant's employment separation was addressed in decision for appeal 09A-UI-15146-DWT. Since the claimant is not working and the employer has not

assigned the claimant to another job since August 27, the facts shows the claimant is not still employed at the same hours and wages as when he started working for the employer.

The fact the claimant has not contacted the employer for work because he moved and lives about an hour from the employer does not make the claimant ineligible to receive benefits as long he looks for work and meets all other eligibility requirements.

**DECISION:**

The representative's September 28, 2009 decision (reference 02) is affirmed. The claimant is not working the same hours that he began working for the employer because he has not worked for the employer since August 27, 2009. Therefore, as of August 23, 2009, the claimant is eligible to receive benefits, provided he meets all other eligibility requirements. The employer's liability was determined when the claimant established his claim during the week of April 12, 2009.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css