

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID WILLIAMS
Claimant

APPEAL NO: 12A-UI-00296-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SECURITAS SECURITY SERVICES USA
Employer

**OC: 11/20/11
Claimant: Appellant (4/R)**

Section 96.19-38-b – Eligibility for Partial Unemployment Insurance Benefits

STATEMENT OF THE CASE:

David Williams (claimant) appealed a representative's December 29, 2011 decision (reference 03) that concluded he was not qualified to receive unemployment insurance benefits in connection with Securitas Security Services USA (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 7, 2012. The claimant participated in the hearing. The employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Was the claimant employed by the employer for less than his usual hours and wages and eligible for full or partial unemployment insurance benefits?

FINDINGS OF FACT:

After a prior period of employment with the employer, the claimant most recently started working for the employer on August 25, 2011. He works full-time at the employer's Des Moines, Iowa, business client location on a ten-hour-per-day, Monday-through-Thursday, schedule. He established an unemployment insurance benefit year effective November 20, 2011. His weekly benefit amount was calculated to be \$288.00. He established his claim in anticipation of being laid off the week ending December 31, because the business client's location would be closed that week. He filed weekly continued claims for the weeks ending November 26, December 3, December 10, December 17, and December 24, each of which he earned and reported wages in excess of \$303.00 (\$288.00 + \$15.00). He did not work any hours and did not earn any wage during the week ending December 31, but he did not file a weekly continued claim for that week because he understood from the Claims representative who had conducted his fact-finding interview that he "had no business" making a claim for unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides that a claimant is deemed partially unemployment insurance benefits if he is not employed at his usual hours and wages and earns less than his weekly benefit amount plus \$15.00. Iowa Code § 96.19-38-b.

From November 20 through December 24, the employer was providing the claimant with his same hours and wages. He was fully employed and not eligible for any partial unemployment insurance benefits during that period and should not have established a claim for unemployment insurance benefits so prematurely. However, for the week ending December 31, 2011, the employer was not providing the claimant with substantially the same employment as it normally provided. Consequently, the claimant would be qualified to receive unemployment insurance benefits for that week, provided he was otherwise eligible.

Since the claimant did not file a weekly continued claim for the week ending December 31, he would not be "otherwise eligible" unless he is allowed to file a backdated continued claim for that week. The matter will be remanded for an investigation and preliminary determination on that issue. 871 IAC 26.14(5).

DECISION:

The unemployment insurance decision dated December 29, 2011 (reference 03) is modified in favor of the claimant. The claimant was not eligible for unemployment insurance benefit for the period of November 20 through December 24, 2011. As of the week of December 25, he would be eligible for unemployment insurance benefits, provided he is otherwise eligible. The matter is remanded to the Claims Section for investigation and determination of the backdated continued claim issue for the week ending December 31.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/kjw