

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JOHN E SCULLY**  
Claimant

**APPEAL NO. 12A-UI-02009-VST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**QHC VILLA COTTAGES LLC**  
Employer

**OC: 01/15/12  
Claimant: Appellant (2)**

Section 96.19-38-b – Eligibility for Partial Unemployment Insurance Benefits  
Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

The claimant filed an appeal from a representative's decision dated February 20, 2012, reference 01, which held that the claimant was not eligible to receive unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on March 15, 2012. The claimant participated. The employer participated by Debra Koenig, administrator. The record consists of the testimony of John Scully and the testimony of Debra Koenig.

**ISSUE:**

Is the claimant employed by the employer for less than his usual hours and wages even though he remains able and available for work, and is he therefore eligible for partial unemployment insurance benefits?

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony of the witnesses and having considered all of the evidence in the record, makes the following findings of fact:

The claimant was hired to work for the Fort Dodge Villa Care Center on February 18, 1983. He was hired to work 30 hours per week. The Fort Dodge Villa Care Center is a skilled nursing facility. On January 17, 2011, the claimant was transferred to the QHC Villa Cottages, which is an assisted living facility. Both facilities are owned by the same persons.

When the claimant was transferred to the QHC Villa Cottages, his hours were reduced from 30 hours per week to 14 hours per week. He established an original claim for benefits on January 16, 2011, and was paid partial unemployment benefits. When he established his claim for January 15, 2012, he was denied partial unemployment benefits. The claimant still has wages from the Fort Dodge Villa Care Center in his base period.

**REASONING AND CONCLUSIONS OF LAW:**

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

Beginning on January 15, 2012, there were weeks in which the employer was not providing the claimant with substantially the same employment as it provided during his base period. Consequently, the claimant is qualified to receive partial unemployment insurance benefits upon the filing of his claim effective January 15, 2012, provided he was otherwise eligible.

In order to be otherwise eligible, the claimant must remain available for work on the same basis as when he was previously working full time and earning the wage credits on which his unemployment insurance benefits are based. Iowa Code § 96.4-3; 871 IAC 24.22(2)(a). He must also report all wages attributable to weeks in which he files weekly claims.

**DECISION:**

The unemployment insurance decision dated February 20, 2012 (reference 01) is reversed. The claimant is eligible for full or partial unemployment insurance benefits for weeks beginning January 15, 2012, in which his regular hours are not made available to him even though he is available for work on the same basis.

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Vicki L. Seeck  
Administrative Law Judge

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Decision Dated and Mailed

vls/kjw