

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

FERN L TODTZ

Claimant

APPEAL NO. 13A-UI-12348-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CLINTON STAFFING COMPANY

Employer

OC: 10/06/13

Claimant: Appellant (2)

Section 96.4-3 - Able to and Available for Work

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

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated October 28, 2013, reference 02, that concluded she was working the same hours and wages as her original contract of hire and could not be considered partially unemployed. A telephone hearing was held on November 26, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Jane Brown participated in the hearing on behalf of the employer. Official notice is taken of the Agency's records regarding the claimant's unemployment insurance claim, which show the claimant's base period was from July 1, 2012, through June 30, 2013. If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

ISSUES:

Was the claimant working the same hours and wages as her original contract of hire causing her to be ineligible for benefits?

Was the claimant able to and available for work?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer as a temporary employee on assignments at Skyline Center as a receptionist from February 26, 2007, to November 5, 2013. Her assignment have ranged from one-day assignments to working up to 32 hours in a week. Her rate of pay was \$8 per hour.

The follow table shows the weeks in which the claimant worked temporary assignments for the employer, the hours worked, and gross earnings.

Week ending	Hours	Earnings
December 29, 2012	24	\$192
January 26, 2013	8	\$64
February 16	31.75	\$254

March 23	16	\$128
April 27	11	\$88
July 6	24	\$192
July 13	32	\$256
July 20	24	\$192
July 27	28	\$224
August 10	16	\$128
August 17	15.5	\$124
September 22	4.25	\$34
September 29	16	\$128
November 2	8	\$64

For the week ending December 29, 2012, the claimant worked 24 hours. For the week ending January 26, the claimant worked 8 hours.

The claimant filed a new claim for unemployment insurance benefits effective October 6, 2013, because her previous benefit year had expired. Her base period was from July 2012 through June 2013. When she filed that claim, her base-period wages were from her on-call employment with Clinton County Courthouse and her temporary work assignments for the employer. Her weekly benefit amount was determined to be \$179.

The claimant remains available for work with the employer and has completed all the work assignments she has been given.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant's employment arrangement with the employer makes her ineligible for benefits effective October 6, 2013.

Iowa Code § 96.19-38-b provides in part:

b. An individual shall be deemed partially unemployed in any week in which, while employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars,

An individual shall be deemed partially unemployed in any week in which the individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

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.

871 IAC 24.1(113)a provides:

Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, **termination of seasonal or temporary employment**, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

The claimant is not ineligible for benefits simply because she was working temporary work assignments. This is a different situation than when a person is working regular part-time hours that have not changed. Each assignment is considered a separate period of employment that ends with a layoff due to lack of work. The claimant has remained available to accept work for the employer. See 871 IAC 24.26(22) (a claimant hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed is not considered to have voluntarily quit).

The claimant remains disqualified effective October 6, 2013, based on the decision in 13A-UI-12347-SWT.

DECISION:

The unemployment insurance decision dated October 28, 2013, reference 02, is reversed. The claimant is not ineligible for benefits based on temporary work assignments with the employer. The claimant remains disqualified effective October 6, 2013, based on the decision in 13A-UI-12347-SWT.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs