

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

CAROL L PETERS
Claimant

APPEAL NO: 18A-UI-04490-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARTLAND EMPLOYMENT SERVICES
Employer

OC: 06/18/17
Claimant: Appellant (2)

Section 96.4-3 – Able and Available for Work
Section 96.4-3 – Same Hours and Wages

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the April 11, 2018, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on May 4, 2018. The claimant participated in the hearing. The employer provided a telephone number prior to the hearing but was not available at that number when called for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

ISSUE:

The issue is whether the claimant is still employed with the employer for the same hours and wages as contemplated in the original contract of hire.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired by Heartland Employment Services, LLC and assigned to work as a receptionist at Manor Care in April 2016. The claimant was working from 4:30 p.m. to 8:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday and Sunday. The employer reduced her hours to weekends only from 11:00 a.m. to 7:00 p.m.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not employed at the same hours and wages as contemplated in the original contract of hire.

Iowa Code § 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(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.

The claimant was hired as a part-time receptionist. There has been no separation from her part-time employment but the claimant is currently working a reduced work week for this employer. Her schedule was changed from approximately 35 hours per week to 16 hours per week. Because there has been a change in the claimant's contract of hire, she is eligible for partial unemployment benefits.

DECISION:

The April 11, 2018, reference 03, decision is reversed. The claimant is not still employed at the same hours and wages as in her original contract of hire and therefore is qualified for partial benefits based on her part-time employment.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn