

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CILA P ROBINSON
Claimant

APPEAL NO: 09A-UI-02618-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WORKSOURCE INC
Employer

OC: 01/04/09

Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

Cila P. Robinson (claimant) appealed a representative's February 9, 2009 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits in conjunction with her employment with WorkSource, Inc. (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 13, 2009. The claimant participated in the hearing. Missy Flippin 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.

ISSUE:

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

FINDINGS OF FACT:

The claimant started working for the employer on October 28, 2007. Since then she has worked on call as a banquet worker for the employer's downtown Des Moines, Iowa business client. The claimant's availability is limited to that area. The claimant worked approximately ten times during the fourth quarter of 2008. As of the date of the hearing the claimant had only worked about three times in the first quarter of 2009, but had been unable to accept some available work due to illness. The need for banquet workers is somewhat seasonal, with more need in the fourth quarter of the year, and the claimant's work in the first quarter of 2009 is roughly equivalent to the work she was provided in the first quarter of 2008.

REASONING AND CONCLUSIONS OF LAW:

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

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.

The employer continues to provide the claimant with substantially the same employment as it provided during her base period. Consequently, the claimant is not qualified to receive unemployment insurance.

DECISION:

The unemployment insurance decision dated February 9, 2009 (reference 02) is affirmed. The claimant is not eligible for unemployment insurance benefits.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css