

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**BONITA SCHOENFIELD**  
Claimant

**APPEAL 16A-UI-02353-JCT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CITY OF INDEPENDENCE**  
Employer

**OC: 01/24/16**  
**Claimant: Respondent (1)**

Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment  
Iowa Code § 96.7(2)a – Same Base-Period Employment

**STATEMENT OF THE CASE:**

The employer filed an appeal from the February 15, 2016 (reference 01) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 17, 2016. The claimant participated personally. The employer participated through Bob Beatty, Director of Parks and Recreational Services. Employer's Exhibit One was admitted into evidence. The administrative law judge took official notice of the administrative record, including fact-finding documents.

**ISSUES:**

Does the claimant meet the definition of being considered partially unemployed?

Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was hired to work part-time as a receptionist. From January 25 until February 5, 2016, the employer did not have any work available for the claimant due to its staffing arrangement; which allowed employees with more seniority to have the available staffing hours. The claimant has had no restrictions to her availability or ability to work. The claimant has since resumed working for the employer.

The administrative record reflects that claimant has received unemployment benefits in the amount of \$228.00 since filing a claim with an effective date of January 24, 2016; for the two weeks ending February 6, 2016.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was unemployed effective January 24, 2016; for the two weeks ending February 6, 2016.

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 Code § 96.19-38 provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

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.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Because the claimant was not employed under the same hours and wages as contemplated at hire between the period of January 24, 2016 until February 6, 2016, she is considered partially unemployed. Benefits may be allowed based upon reporting of weekly earnings. For whatever period the employer is not offering the same wages and hours as contemplated in the contract or terms of hire, it may be liable for benefit charges to its account.

Partial benefits based upon payment of gross wages are calculated using the following formula:

Gross wages – 25 percent of WBA = deduction from benefits rounded down.

For example:

20 hours x \$8.00 per hour = \$160.00 gross wages.

\$280.00 WBA x .25 = \$70.00 deduction from benefits.

\$160.00 - \$70.00 = \$90.00 deduction from benefits.

\$280.00 - \$90.00 = \$190.00 partial benefits for a week with \$160.00 in gross wages.

**DECISION:**

The February 15, 2016 (reference 01) unemployment insurance decision is affirmed. The claimant is partially unemployed and benefits are allowed effective January 24, 2016; for the two weeks ending February 6, 2016. She is required to report any gross wages earned for each week of benefits claimed. The employer's account may be liable for charges.

---

Jennifer L. Beckman  
Administrative Law Judge

---

Decision Dated and Mailed

jlb/can