

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CASEY H LAFRENTZ
Claimant

APPEAL NO. 11A-UI-01294-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

TOTAL DETAILING AUTO SPA LLC
Employer

OC: 01/09/11
Claimant: Respondent (2)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The employer appealed a department decision dated January 25, 2011, reference 01, that held the claimant was eligible for benefits effective January 9, 2011, as he is still employed part-time, on-call whenever work is available. A telephone hearing was held on March 3, 2011. The claimant did not participate. Tim Lofgren, owner/manager, participated for the employer.

ISSUE:

Whether the claimant is able and available for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant was hired as a part-time employee with no guarantee of hours to work in the wash department on March 13, 2010. The claimant has worked an average of 25 to 29 hours each week.

The claimant filed a claim for the week ending January 22, 2011 and he reported gross earnings of \$100.00 and he received a partial benefit of \$57.00. Although the claimant filed some additional weekly claims in January 2011 (one week before and one week after the week ending January 22), his reported earnings were excessive and he received no benefit. The employer recorded the claimant worked 21.52 hours in the wash department for the week ending January 22, and at \$8.00 an hour, had gross earnings of \$172.13. The claimant worked all hours made available by the employer. The claimant is still working for the employer as of the date of this hearing. His weekly benefit amount is \$122.00.

The claimant was not available when called for the hearing at the number he provided.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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".

The administrative law judge concludes that the claimant is not eligible for partial benefits the week ending January 22, 2011 due to excessive earnings.

The claimant is not eligible for partial benefits because his gross earnings of \$172.13 exceed his weekly benefit amount of \$121.00.

DECISION:

The department decision dated January 25, 2011, reference 01, is reversed. The claimant is not eligible for benefits the week ending January 22, 2011, due to excessive work/earnings.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw