

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DOUGLAS J HETZLER
Claimant

APPEAL NO: 10A-UI-06337-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE AMERICAN BOTTLING COMPANY
Employer

OC: 03/29/09
Claimant: Appellant (2)

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

STATEMENT OF THE CASE:

Douglas J. Hetzler (claimant) appealed a representative's April 21, 2010 decision (OC 03/29/09 – reference 02) that concluded he was not qualified to receive unemployment insurance benefits for the week ending March 27, 2010, in connection with his employment with The American Bottling Company (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 15, 2010. The claimant participated in the hearing. Julie Montgomery appeared on the employer's behalf and presented testimony from one other witness, Joe Herrmann. 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 7, 2009. He worked full time as a lab technician in the employer's Ottumwa, Iowa plant, working on a shift beginning between about 3:30 p.m. and 5:00 p.m., through about 2:00 a.m. to 4:30 a.m., on four nights per week, Monday through Thursday. His last shift worked was the shift that began at 5:30 p.m. on March 30 and ended at about 4:00 a.m. on March 31. As determined in a separate representative's decision issued on April 22, 2010 (OC 03/28/10 – reference 02), the claimant voluntarily quit without good cause attributable to the employer as of that shift. (No appeal has been filed to that determination, and it is not under review in this decision.)

Before that separation occurred, there was a gap in the claimant's work schedule; between March 19 and March 28 he had no hours of work. This was because the employer had imposed a temporary layoff for lack of work applicable to the claimant. As a result, the claimant worked no hours and earned no wages during the week ending March 27, 2010.

The claimant had originally established an unemployment insurance benefit year effective March 29, 2009. Upon the temporary layoff, he reopened this benefit year by filing an additional claim effective March 21, 2010. He filed a weekly claim seeking unemployment insurance benefits for the week ending March 27, 2010 due to the layoff from work that week.

REASONING AND CONCLUSIONS OF LAW:

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

Beginning on or about March 21 through March 27, 2010, the employer was not providing the claimant with his usual hours and wages. Consequently, the claimant is qualified to receive unemployment insurance benefits upon the filing of his claim for that week, provided he was otherwise eligible.

As the employer was not a base period employer on the claimant's March 29, 2009 benefit year, the employer is not a chargeable employer for the benefits paid for the week ending March 27, 2010. Iowa Code § 96.7.

DECISION:

The unemployment insurance decision dated April 21, 2010 (OC 03/29/09 – reference 02) is reversed. The claimant is eligible for unemployment insurance benefits for the benefit week ending March 27, 2010. The employer's account is not subject to charge for those benefits as it was not a base period employer in that benefit year.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/pjs