

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**COURTNEY JANSMA**  
Claimant

**APPEAL NO. 11A-UI-12824-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**L A LEASING INC**  
Employer

**OC: 08/14/11**  
**Claimant: Appellant (2)**

Section 96.4-3 - Able to and Available for Work

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated September 26, 2011, reference 04, that concluded he was ineligible for benefits because he was still employed for the same wages and hours as he was originally hired. A telephone hearing was held on October 20, 2011. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

**ISSUE:**

Is the claimant ineligible for benefits because he was still employed for the same wages and hours as he was originally hired?

**FINDINGS OF FACT:**

The claimant filed a claim for benefits effective August 8, 2010, after his full time employment with Archer-Daniels-Midland Company ended and received regular unemployment insurance benefits and Emergency Unemployment Compensation.

Since the claimant was unable to find full-time work, he took a part-time job working for the employer starting June 6, 2011, and received partial unemployment insurance benefits. The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis.

The claimant filed for a second benefit year effective August 14, 2011. The claimant's benefits are based exclusively on wages from Archer-Daniels-Midland Company. His weekly benefit amount was \$385.00. The employer is not a base period employer on the claim.

The claimant continued to file for partial unemployment benefits because his earnings were less than his weekly benefit amount. The employer continued to provide the same hours and wages as when the claimant was hired up until September 18, 2011, when his employment ended. He has been looking for full-time employment.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3.

The Agency mistakenly treated this case as if the claimant's base period wages were all from the employer and relied on 871 IAC 24.23(26)—which states that a claimant is not eligible for partial unemployment benefits if he is still employed at the same hours and wages as his original contract of hire—in denying benefits to the claimant. In fact, all of the claimant's base-period wages are from his full-time job with Archer-Daniels-Midland Company.

This section does not apply to the facts in this case where the claimant is applying for benefits after he was laid off by his regular employer. It should only be used when the claimant applies for partial unemployment insurance benefits from one base period employer who continues to employ the claimant for the same number of hours and wages as established at the time of hire. The claimant was qualified to receive benefits effective August 14, 2011, because he was working part-time and his earnings are less than his weekly benefit amount. See Iowa Code § 96.19-38.

The employer's account is not presently chargeable for benefits paid to the claimant, since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, charges for benefits paid to the claimant will be based on the circumstance surrounding his separation from employment.

The claimant is currently disqualified from receiving benefits effective September 18, 2011, due to his separation from the employer, which is not the subject of this appeal.

**DECISION:**

The unemployment insurance decision dated September 26, 2011, reference 04, is reversed. The claimant is qualified to receive unemployment insurance benefits effective August 14, 2011, if he is otherwise eligible. The claimant remains disqualified from receiving benefits effective September 18, 2011, due to his separation from the employer.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/kjw