

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LINDA L BINEGAR**  
Claimant

**APPEAL NO: 12A-UI-10240-DW**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CITY OF NEWTON**  
Employer

**OC: 07/29/12**  
**Claimant: Appellant (2/R)**

Iowa Code § 96.19(38) – Partial Unemployment  
871 IAC 24.23(26) – Part Time Employment and Not Partially Unemployed

**PROCEDUAL STATEMENT OF THE CASE:**

The claimant appealed a representative's August 20, 2012 determination (reference 01) that held her ineligible to receive benefits because she was not considered partially unemployed. The claimant participated in the hearing. Nathan Unsworth appeared on the employer's behalf. Kay Smothers observed the hearing. During the hearing, Employer Exhibit One was offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant's employment changed and she became partially unemployed as of July 2012 and totally unemployed as of mid-September 2012.

**ISSUE:**

Did the employer reduce or change the claimant's hours so she is eligible to receive benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer in July 1998. (Employer Exhibit One.) Initially, the claimant worked an average of 40 hours every two weeks as a part-time secretary. (Employer Exhibit One.)

The employer restructured the office in May 2012 and hired a part-time secretary. During the busy season, the month of June, the claimant continued to work as average of 40 hours every two weeks. After the restructuring took place, the employer told the claimant her hours would start to decrease and she would be on a seasonal layoff around Labor Day. Starting in July, the claimant's hours were reduced by 50 percent. (Employer Exhibit One.)

On September 10, the claimant was placed on a temporary layoff. The employer plans to contact the claimant to work again in April or May 2013. Also, if someone calls in sick or cannot work a certain day, the employer may call the claimant to work during her layoff.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is totally unemployed in any week she receives no wages and performs no services. Iowa Code § 96.19(38)a. A claimant is partially unemployed in any week she performs less than her regular hours and earns less than her maximum weekly benefit amount plus \$15. Iowa Code § 96.19(38)b.

When a claimant is still employed in a part-time job at the same hours and wages as contemplated when hired and is not working a reduced workweek, the claimant is not partially unemployed. 871 IAC 24.23(26).

The facts establish that before the employer restructured the office in May 2012, the claimant worked an average of 20 hours a week as a part-time secretary. Starting in July 2012, her hours were reduced by approximately 50 percent. On September 10, the employer put her on a temporary layoff until April or May 2013. Under these facts, the claimant is eligible to receive benefits as of July 29, 2012, for any week she earns less than \$150.

**DECISION:**

The representative's August 20, 2012 determination (reference 01) is reversed. The claimant started working a reduced workweek in July 2012. Therefore, as of July 29, 2012, the claimant is eligible to receive benefits during any week she files a claim and earns less than \$150. This matter is **Remanded** to the Claims Section to determine the amount of benefits the claimant is eligible to receive since July 29, 2012.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs