

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MICHAEL E JOSEPHSON
Claimant

APPEAL NO. 100-UI-05773-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

**Original Claim: 11/29/09
Claimant: Appellant (2)**

Section 96.4-3 – Able and Available
Section 96.19-38-b - Eligibility for Partial Unemployment Insurance Benefits

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 12, 2010, reference 01, that concluded he was not eligible for partial unemployment insurance benefits. A telephone hearing was held on June 8, 2010. The claimant participated in the hearing. Nancy Nourse participated on behalf of the employer.

ISSUE:

Was the claimant eligible for partial unemployment insurance benefits effective November 29, 2009?

FINDINGS OF FACT:

The claimant worked full time for Eaton Corporation until his employment ended in March 2008. He filed a new claim for unemployment insurance benefits based on his separation from his full-time employment with Eaton Corporation in November 2008.

The claimant started working part-time for the employer on March 26, 2009, and still works part-time on the same basis. When he started his part-time job for the employer, he continued to file weekly claims for unemployment benefits because his wages were less than his weekly benefit amount. He continues to look for full-time work and considers the job with the employer to be stop-gap employment until he can secure a full-time job. He filed until his benefits were exhausted in November 2009.

The claimant filed for a new benefit year effective November 29, 2009. The claim is based on wages from his full-time employer, Eaton Corporation, and the employer. His employment status with the employer has not changed. He has not restricted the hours or days that he is willing to work and continued to seek full-time employment.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was eligible for partial unemployment insurance benefits effective December 20, 2009.

Iowa Code section 96.3-3 provides:

3. Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.19, subsection 38, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

Iowa Code section 96.19-38-b defines partially unemployed as including situations in which a person having separated from his regular job, earns at odd jobs less than the person's weekly benefit amount plus fifteen dollars. While the language "odd jobs" suggests a situation different from the part-time job, I take official notice of the agency's practice of routinely awarding benefits to claimants who accept regular part-time work as stop-gap employment after losing their full-time jobs until they can return to full-time employment. While the claimant is working the same hours and wages as when he was hired, this claim is not based solely on part-time work, but instead was based on two quarters of full-time work from Eaton Corporation.

The claimant is entitled to partial unemployment insurance benefits in any week in which his earnings were less than his weekly benefit amount plus \$15.00.

The unemployment insurance law provides that an individual be able to and available for work. Iowa Code section 96.4-3. The claimant was able to and available to work and did not restrict the number of hours he was willing to work.

The final issue is whether the employer's account is subject to charge for benefits paid to the claimant.

Iowa Code section 96.7-2-a(2) provides in part:

(2) The amount of regular benefits . . . paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer.

The employer's account is not subject to charge for benefits paid to the claimant, because the employer has provided the claimant with the same employment as it provided him during the base period.

DECISION:

The unemployment insurance decision dated January 12, 2010, reference 01, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible. The employer's account is not subject to charge for benefits paid to the claimant.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/kjw