

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

HECTOR VILLA
Claimant

APPEAL NO. 16A-UI-05330-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**WESTERN IOWA TECH COMMUNITY
COLLEGE**
Employer

OC: 04/17/16
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available
871 IAC 24.23(26) – Part-Time Worker – Able and Available

STATEMENT OF THE CASE:

Hector Villa (claimant) appealed a representative's May 6, 2016, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he is still employed in his job for the same hours and wages as he was hired by Western Iowa Tech Community College (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 24, 2016. The claimant participated personally through Dee Crowder, Interpreter. The employer participated by Brenda Bradley, Dean of Quality and Human Resources.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable for work. .

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on February 5, 2015, as a part-time adult basic education specialist. He has consistently worked the same hours per week since he started. The claimant filed for unemployment insurance benefits with an effective date of April 17, 2016. His employment terms had not changed.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 § 96.19,

subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 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 § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(26) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant was hired as a part-time worker and is still working part time for the employer. There has been no change to his hours. The claimant is disqualified from receiving unemployment insurance benefits because he was not available for work during his employment.

DECISION:

The representative's May 6, 2016, decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css