

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LINDA L TWEEDY

Claimant

APPEAL NO. 14A-UI-05619-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CIVIC CENTER OF GREATER DES MOINES

Employer

OC: 04/27/14

Claimant: Appellant (1)

Iowa Code § 96.4(3) – Able and Available
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment
871 IAC 24.22(2)f – Part-Time Worker – Able and Available

STATEMENT OF THE CASE:

Linda Tweedy (claimant) appealed a representative's May 22, 2014, decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits because she is still employed in her job for the same hours and wages as she was hired by Civic Center of Greater Des Moines (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for June 24, 2014. The claimant participated personally. The employer participated by William McElrath, Business Director.

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 May 26, 1998, as a part-time on-call crew member. She continues to work in this capacity for the employer.

The claimant filed for unemployment insurance benefits with an effective date of April 27, 2014. Her base period of employment is the first quarter of 2013 through the fourth quarter of 2013. All the claimant's employment in her base period is part-time on-call work.

REASONING AND CONCLUSIONS OF LAW:

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.

Iowa Admin. Code r. 871-24.22(2)i(3) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market....

i. On-call workers.

(3) An individual whose wage credits earned in the base period of the claim consist exclusively of wage credits by performing on-call work, such as a banquet worker, railway worker, substitute school teacher or any other individual whose work is solely on-call work during the base period, is not considered an unemployed individual within the meaning of Iowa Code § 96.19(38)"a" and "b." An individual who is willing to accept only on-call work is not considered to be available for work.

The claimant was hired as a part-time on-call worker and is still working as an on-call part-time for the employer. She is still employed in a part-time position as was agreed to at the time she was hired. The claimant is disqualified from receiving unemployment insurance benefits as she is not available for work.

DECISION:

The representative's May 22, 2014, decision (reference 03) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she is not available for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs