

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JENNIFER WOODS

Claimant

APPEAL NO: 16A-UI-07289-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ST LUKES METHODIST HOSPITAL

Employer

OC: 06/05/16

Claimant: Appellant (1)

Section 96.4-3 – Able and Available for Work

Section 96.4-3 – Same Hours and Wages

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the June 28, 2016, reference 03, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on July 21, 2016. The claimant participated in the hearing. Teresa Saxon, Human Resources Business Partner and Darla Moander, Supervisor, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant is still employed with the employer for the same hours and wages as contemplated in the original contract of hire.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a full-time lab assistant for St. Lukes Methodist Hospital May 19, 2014. She worked in that capacity until June 12, 2016, at which time she requested and was granted permission to work part-time due to health concerns that prevent her from standing or sitting for long periods of time and because she was concerned the medications she is taking could potentially be dangerous. The claimant continues to work part-time for the employer.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is still employed at the same hours and wages as contemplated in the original contract of hire.

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 section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 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 section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 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 full-time lab assistant but requested to go to part-time employment due to health concerns. There has been no separation from her part-time employment and the claimant is currently working for this employer at the same hours and wages as contemplated in the original contract of hire which was executed at the time the claimant requested to be a part-time employee. Consequently, there has not been a change in the claimant's hours or wages that was caused by the employer. Therefore, the claimant is not eligible for unemployment insurance benefits based on her on her part-time employment.

DECISION:

The June 28, 2016, reference 03, decision is affirmed. The claimant is still employed at the same hours and wages as in her original contract of hire and, therefore, is not eligible for unemployment insurance benefits based on her part-time status. The employer's account is not subject to charge.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs