

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TERA J HART**  
Claimant

**APPEAL NO. 11A-UI-13401-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BECK OIL COMPANY OF ILLINOIS  
BECK OIL COMPANY**  
Employer

**OC: 08/21/11  
Claimant: Appellant (1/R)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Tera Hart (claimant) appealed a representative's October 4, 2011 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she was unwilling to work the number of hours required in her occupation with Beck Oil Company of Illinois (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for November 1, 2011. The claimant participated personally. The employer participated by Becky Brennan, manager.

**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 having considered all of the evidence in the record, finds that: The claimant was hired on November 1, 2011, as a part-time cashier. She consistently worked 18 to 24 hours per week. In July 2011, the claimant told the employer that she had a full-time job and wanted to work Friday and Saturday only, 16 hours per week. The employer complied.

The claimant's full-time employer laid her off from work for two weeks and she filed for unemployment insurance benefits with an effective date of August 21, 2011. The claimant returned to full-time work after layoff.

In early September 2011, the claimant requested that her hours be reduced again. She wanted to work Saturday only, eight hours per week. The employer complied.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is not available for work.

871 IAC 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. She asked that those part-time hours be changed because she was employed in another full-time position and the employer complied. The change in hours was initiated by the claimant. She is still employed in a part-time position as was agreed to at the time she was hired or at the time the claimant requested the changes. The claimant is disqualified from receiving unemployment insurance benefits, because she was not available for work.

The issue of the claimant's separation with Thomas L. Cardella is remanded for determination.

**DECISION:**

The representative's October 4, 2011 decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits, because she was not available for work. The issue of the claimant's separation with Thomas L. Cardella is remanded for determination.

---

Beth A. Scheetz  
Administrative Law Judge

---

Decision Dated and Mailed

bas/kjw