

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARY E FINCH

Claimant

APPEAL NO. 07A-UI-10754-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MERCY HOSPITAL

Employer

**OC: 09/23/07 R: 02
Claimant: Respondent (2)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Mercy Hospital filed an appeal from a representative's decision dated November 13, 2007, reference 01, which allowed benefits to Mary Finch but denied the employer relief from charges. After due notice was issued, a hearing was held by telephone on December 6, 2006. Ms. Finch participated personally. The employer participated by Eddie Brown, Employee Relations/Compliance Coordinator.

ISSUE:

At issue in this matter is whether Ms. Finch is partially unemployed.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Finch began working for Mercy Hospital on January 5, 1999 as a full-time employee. Her full-time job entering operating room records onto the computer was eliminated in 2005. Ms. Finch then applied for and accepted a part-time position as a communications secretary on the coronary care unit. She has worked Mondays and Wednesdays for eight hours each day since September 18, 2005. She picks up additional hours as she is able.

There have been no changes in Ms. Finch's primary schedule since September 18, 2005. She filed a claim for job insurance benefits effective September 23, 2007 because of her part-time status with the hospital. The base period of her claim consists of the second, third, and fourth calendar quarters of 2006 and the first quarter of 2007.

REASONING AND CONCLUSIONS OF LAW:

Ms. Finch filed a claim for job insurance benefits because she is only working part time for Mercy Hospital. However, the position she accepted in September of 2005 was only a part-time job. She had the option in 2005 of remaining with the hospital as a part-time employee or leaving the hospital to seek full-time work elsewhere. Because she chose to stay, she accepted

the fact that she would only be working part-time. The entire base period on which her claim for job insurance is based consisted of part-time work.

For the above reasons, the administrative law judge concludes that Ms. Finch is still employed in her part-time job under the same terms and conditions that she accepted in September of 2005. As such, she cannot be considered partially unemployed. See 871 IAC 24.23(26). Accordingly, benefits are denied on her claim filed effective September 23, 2007. No overpayment results from this reversal of the prior allowance, as Ms. Finch has not claimed benefits since filing her claim.

DECISION:

The representative's decision dated November 13, 2007, reference 01, is hereby reversed. Ms. Finch is not entitled to job insurance benefits effective September 23, 2007, as she is not partially unemployed within the meaning of the law.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/kjw