

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTIAN M WATKINS
Claimant

APPEAL NO. 14A-UI-09321-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FEDEX GROUND PACKAGE SYSTEM INC
Employer

OC: 08/10/14
Claimant: Appellant (1)

Section 96.4-3 – Able and Available for Work
Iowa Admin. Code r. 871-24.23(26) – Still Employed at Same Hours and Wages

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated September 2, 2014, reference 02, which held the claimant not eligible for unemployment insurance benefits effective August 10, 2014 upon a finding the claimant was still employed at the same hours and wages as in the original agreement of hire. After due notice, a telephone conference hearing was held on September 30, 2014. Claimant participated. Employer participated by Mr. Greg Curhright and Mr. Christopher Johnson.

ISSUE:

The issue in this matter is whether the claimant is still employed part time at the same hours and wages as agreed in the original contract of hire.

FINDINGS OF FACT:

Having considered the evidence in the record, the administrative law judge finds: Christian Watkins most recently began employment with Fedex Ground Package System, Inc. on June 4, 2011 and continues to be employed at the time of hearing. Mr. Watkins was hired to work as a part-time package handler working 20-25 hours per week and was paid at the rate of \$9.75 per hour. Mr. Watkins continues to be paid by the hour at the same or greater rate per hour.

Mr. Watkins filed a claim for partial unemployment insurance benefits effective August 10, 2014 because he desired to supplement his income. Mr. Watkins' income as a part-time worker is not as great as when he had been previously employed and was a full-time worker for the company.

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 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 part-time worker and is still working part time for this employer. He is still employed at the same hours and wages as agreed upon at the time of hire. Claimant is not eligible for partial unemployment insurance benefits based upon his employment with this company because he continues to work at the same number of working hours and at the same pay as agreed. Claimant is disqualified from receiving unemployment insurance benefits because he is not available for work with other employers due to his work with Fedex Ground Package System, Inc.

DECISION:

The representative's decision dated September 2, 2014, reference 02, is affirmed. Claimant continues to be employed at the same hours and wages as contemplated in the original agreement of hire. Claimant is disqualified from receiving unemployment insurance benefits because he is not available for work within the meaning of the Employment Security Law.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

pjs/pjs