

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROBERT K GALABUZI**  
Claimant

**APPEAL NO: 10A-UI-10845-DT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MOSAIC**  
Employer

**OC: 07/11/10**

**Claimant: Respondent (4)**

Section 96.19-38-b – Eligibility for Partial Unemployment Insurance Benefits  
871 IAC 23.43(4)(a) – Charges for Partial Unemployment Insurance Benefits

**STATEMENT OF THE CASE:**

Mosaic (employer) appealed a representative's July 29, 2010 decision (reference 01) that concluded Robert K. Galabuzi (claimant) was qualified to receive unemployment insurance benefits and that its account was subject to charge. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on September 21, 2010. The claimant participated in the hearing. Tom Kuiper of TALX Employer Services appeared on the employer's behalf and presented testimony from one witness, Nancy Seel. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Is the claimant employed by the employer for less than his usual hours and wages and eligible for full or partial unemployment insurance benefits? Is the employer's account subject to charge?

**FINDINGS OF FACT:**

The claimant started working for the employer on November 8, 2006. Over the term of his employment he has worked part time, full time, and on-call as a direct support associate in a group home operated by the employer as part of its services to adults with intellectual disabilities.

Prior to September 9, 2009 the claimant had been working full time, but as of that date, at his request, he went to part time status, about 18 hours per week. This was because he had accepted and begun other full time employment with another employer. He continued in both employments, but as of about January 1, 2010, at his request, went to an on-call status with the employer, as his hours with his other employer were increasing due to seasonal demand. He did not work at all with the employer from January until about April 4, when the seasonal demand with his other employment began to lift. From about April 4 through July 12 he picked up occasional hours with the employer as he was available.

On July 12 the claimant's employment with his other full time employer was ended. Shortly thereafter he requested the employer to revise his status back to full time; this status change was implemented effective July 25. He had established an unemployment insurance benefit year effective July 11, 2010 upon his separation from his other then full time employer; he filed weekly continued claims for two weeks, the weeks ending July 17 and July 24, but due to having other wages or vacation pay attributable to the week ending July 17, he only was only paid benefits for the week ending July 24. He has not filed any weekly continued claims since July 24.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant is eligible for partial unemployment insurance benefits and the employer's account is subject to charge. The unemployment insurance law provides that a claimant is deemed partially unemployment insurance benefits if he has been permanently or temporarily separated from one employer and earns less than his weekly benefit amount plus \$15.00 in other employment. Iowa Code § 96.19-38-b; see also Iowa Code § 96.3-3.

If the claimant had other employment during his base period and remains in that employment, he continues to be eligible for benefits as long as he is receiving the same employment from that employer as he received during the base period. However, under those circumstances the supplemental employer's account is relieved of benefit charges. 871 IAC 23.43(4)a.

The claimant was separated from his then regular full-time employer as of July 12, 2010 and continued to work for his supplemental employer. The employer was willing to provide the claimant with substantially the same employment as it provided during his base period, and in fact returned him to his more full time status upon his request after his separation from his intermittent full time employer. Consequently, the claimant is qualified to receive at least partial unemployment insurance benefits effective July 11, 2010, provided he was otherwise eligible. To be eligible for benefits for any particular week, as he has done, the claimant would file a weekly continued claim for that week reporting his wages from all employers earned (not paid) for that week; the amount of his benefits is then determined pursuant to the formula set out by the statute. 871 IAC 24.52(8); Iowa Code § 96.3-3.

Under rule 871 IAC 23.43(4)a the employer is exempt from charge for benefits paid to the claimant as long as it continues to be willing to provide the claimant with the same employment it provided during his base-period.

**DECISION:**

The unemployment insurance decision dated July 29, 2010 (reference 01) is modified in favor of the employer. The claimant is eligible for at least partial unemployment insurance benefits, provided he is otherwise eligible, and the employer's account is exempt from charge for benefits paid to the claimant.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

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