

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

STEPHEN J SCHALLEHN
Claimant

APPEAL NO. 10A-UI-09905-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA STATE UNIVERSITY
Employer

OC: 01/03/10
Claimant: Respondent (2-R)

Iowa Code Section 96.19-38-b – Eligibility for Partial Unemployment Insurance Benefits
Iowa Code Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

The employer filed a timely appeal from the July 8, 2010, reference 02, decision that allowed benefits based on an Agency conclusion that the claimant was subjected to a short-term layoff. After due notice was issued, a hearing was held on August 26, 2010. Claimant Stephen Schallehn participated. Greg Bolles, Human Resources Specialist, represented the employer. The administrative law judge took official notice of the Agency's administrative record of benefits disbursed to the claimant and the claimant's base period wages.

ISSUE:

Whether Mr. Schallehn has been partially unemployed since he established his claim for unemployment insurance benefits. Specifically, whether Mr. Schallehn was partially unemployed during the week that ended June 26, 2010.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Stephen Schallehn started working for Iowa State University in 1996 and continues in the employment at this time. Mr. Schallehn works full-time year round as a network engineer at an annual salary of \$80,760.00, or \$6,730.00 per month. The annual salary divided by 52 weeks is \$1,553.00.

Due to State budget cuts, Iowa State University administration required that Mr. Schallehn take six days of unpaid furlough before June 30, 2010. Mr. Schallehn could either take the six days together or spread them out. However, under the furlough plan, the reduction in pay attributable to the six unpaid furlough days taken was to be spread out over the first six months of 2010.

Mr. Schallehn took five furlough days during the benefit week that ended June 26, 2010. The reduction in pay associated with the furlough days was \$2,016.00. This reduction in pay was spread out equally over the first six months of 2010. Mr. Schallehn's monthly pay was reduced by \$336.00. The corresponding weekly pay reduction for the 26-week period was \$78.14. Thus, during the first six months of 2010, Mr. Schallehn's weekly salary was reduced from \$1,553.00 to \$1,475.00.

Mr. Schallehn established a claim for benefits that was effective January 3, 2010, but did not attempt to draw benefits at that time. At the time Mr. Schallehn established his claim, Workforce Development calculated his weekly benefit amount at \$388.00. Mr. Schallehn reopened his claim effective June 20, 2010. For the week ending June 26, 2010, Mr. Schallehn reported zero wages and was paid \$388.00 in regular unemployment insurance benefits and an additional \$25.00 in federal stimulus benefits. Mr. Schallehn's eligibility for the federal stimulus benefits was contingent upon him being eligible for the weekly regular unemployment insurance benefits. During the two weeks Mr. Schallehn's claim was active—the weeks ending June 26 and July 3, 2010, Mr. Schallehn actually received weekly wages that exceeded his weekly unemployment insurance benefit amount by more than \$15.00.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides that a claimant is deemed partially unemployment insurance benefits if he is not employed at his usual hours and wages and earns less than his weekly benefit amount plus \$15.00. Iowa Code section 96.19-38-b. While the claimant worked less than his regular full-time workweek during the week ending June 26, 2010, his earnings for the week exceeded his weekly unemployment insurance benefit amount by more than \$1,000.00.

Because the pay reduction was spread out over a six-month period, there was no week in which the claimant's earnings were less than his weekly benefit amount plus \$15.00. The claimant cannot be deemed partially unemployed within the meaning of the law during the week ending June 26, 2010 and was not eligible for unemployment insurance benefits for that week.

DECISION:

The representative's July 8, 2010, reference 02, decision is reversed. The claimant is not eligible for unemployment insurance benefits for the week ending June 26, 2010.

This matter is remanded to the Claims Division for entry of an overpayment decision concerning the \$388.00 in regular benefits and the \$25.00 in federal stimulus benefits disbursed to the claimant for the week ending June 26, 2010.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs