

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASMINA DELILOVIC
Claimant

APPEAL NO. 06A-UI-10436-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**DES MOINES INDEPENDENT COMMUNITY
SCHOOL DISTRICT**
Employer

**OC: 09/24/06 R: 02
Claimant: Appellant (2)**

Section 96.4(3) – Able and Available

STATEMENT OF THE CASE:

Jasmina Delilovic filed an appeal from a representative's decision dated October 23, 2006, reference 02, which denied benefits on a finding that she was still employed by the Des Moines Community School District under the same terms and conditions as hired. After due notice was issued, a hearing was held by telephone on November 9, 2006. Ms. Delilovic participated personally. The employer did not respond to the notice of hearing.

ISSUE:

At issue in this matter is whether Ms. Delilovic is eligible to receive job insurance benefits on her claim filed effective September 24, 2006.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Delilovic began working for the Des Moines Independent Community School District in November of 1994. She was hired to work full time as a native language tutor working with Bosnian students. She worked approximately 37.5 hours per week.

Ms. Delilovic became a part-time employee effective with the 2005-2006 school year. The reduction was initiated by the employer due to a declining need for a Bosnian tutor. She was working 18.75 hours per week during the 2005-2006 school year that ended June 3, 2006. She is currently working part time as a tutor for 18.75 hours each week for the school year that began August 21, 2006.

REASONING AND CONCLUSIONS OF LAW:

Ms. Delilovic filed a claim for job insurance benefits effective September 24, 2006. She filed her claim after the school year started and not during the break between academic years. The administrative law judge must determine if she is partially unemployed. The base period of her claim consists of wage credits earned with the school district in both full-time and part-time work. She was hired by the school district to work as a full-time tutor but was later reduced to

part-time status at the employer's initiative. Ms. Delilovic is no longer employed by the district under the same terms and conditions as hired. Inasmuch as she still has base period wage credits earned in full-time employment with the district, she is partially unemployed and entitled to job insurance benefits.

The school district is currently providing Ms. Delilovic with the same part-time employment as it did during at least part of the base period of her claim. An employer is entitled to a relief from benefit charges if it is currently providing the same employment as it did during the base period of the claim. Iowa Code section 96.7(2)a(2). The statute does not address situations where an individual has both full-time and part-time base period wage credits with the same employer. The administrative law judge concludes that relieving the school district of charges in this case would be consistent with the intent of the statute. Accordingly, the district shall not be charged for benefits paid to Ms. Delilovic as a result of the decision herein.

DECISION:

The representative's decision dated October 23, 2006, reference 02, is hereby reversed. Ms. Delilovic is eligible to receive job insurance benefits effective September 24, 2006 as she is partially unemployed. Benefits are allowed, provided she satisfies all other conditions of eligibility, but shall not be charged to the Des Moines Independent Community School District.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/cs