

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PEGGY S BAHR
Claimant

APPEAL NO. 12A-UI-08660-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MCSOIFER'S INC
Employer

OC: 06/10/12
Claimant: Appellant (1-R)

Section 96.4-3 - Able to and Available for Work
Section 96.19-38-b - Eligibility for Partial Unemployment Insurance Benefits

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated July 16, 2012, reference 01, that concluded she was ineligible to receive partial unemployment insurance benefits because she was still employed at the same hours and wages as her contract of hire. A telephone hearing was held on August 14, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Scott Soifer participated in the hearing on behalf of the employer.

ISSUES:

Is the claimant eligible for partial unemployment insurance benefits?

Was the claimant able to and available for work?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits with an effective date of June 10, 2012. Her weekly benefit amount was determined to be \$161.00.

Since June 10, 2012, the claimant has worked 20 hours per week at a rate of pay of \$9.85 per hour for \$197.00 per week. She has not had any weeks since filing the claim for unemployment insurance benefits in which her wages were less than her earnings limit of \$176.00, other than a week where she did not work all her available hours due to a family medical issue.

The claimant has not properly been reporting her earnings each week. Instead of reporting her earnings, she has been reporting her hours worked.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was eligible for partial unemployment insurance benefits effective June 10, 2012.

Iowa Code § 96.3-3 provides:

3. Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.19, subsection 38, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

Iowa Code § 96.19-38-b provides in part:

b. An individual shall be deemed partially unemployed in any week in which, while employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

The claimant is not eligible for partial unemployment insurance benefits because her earnings were never less than her weekly benefit amount of \$161.00 plus \$15.00 or \$176.00.

From looking at the claimant's benefit history, it appears the claimant may have been reporting her hours worked and not her weekly earnings during at least part of her previous benefit year. The issue of whether the claimant properly reported her wages during her benefit year ending June 9, 2012, is remanded to the Agency.

DECISION:

The unemployment insurance decision dated July 16, 2012, reference 01, is affirmed. The claimant is ineligible to receive partial unemployment insurance benefits effective June 10, 2012, because she does not meet the definition of being partially unemployed. The issue of whether the claimant properly reported her wages during her benefit year ending June 9, 2012, is remanded to the Agency.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css