

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

SANDRA F OELLRICH
#98
1225 FIRST AVE
MOUNT VERNON IA 52314

SEARS ROEBUCK & CO
c/o TALX UCM SERVICES INC
P O BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 04A-UI-04279-DWT
OC 01/11/04 R 03
Claimant: Appellant (4)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal are based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

871 IAC 24.18 – Excessive Earnings

STATEMENT OF THE CASE:

Sandra F. Oellrich (claimant) appealed a representative's April 5, 2004 decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits as of March 7, 2004, because she was still working the same hours that Sears Roebuck & Company (employer) had hired her to work and that she has worked during her employment. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 7, 2004. The claimant participated in the hearing. Rod Mochal, the store manager, appeared on the employer's behalf. 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.

ISSUE:

As of March 7, 2004, is the claimant partially unemployed and eligible to receive partial unemployment insurance benefits?

FINDINGS OF FACT:

The claimant started working for the employer on January 16, 2003. The employer hired her to work part time. During her employment, the claimant worked an average of ten hours a week. The number of hours she worked varies with the season.

The claimant was ill and unable to work from December 27, 2003 through January 5, 2004. When the claimant was able to return to work, the employer's busy season ended, which resulted in a reduction of the number of hours employees were scheduled to work. The claimant established a claim for unemployment insurance benefits during the week of January 11, 2004.

The claimant appealed a decision that held her ineligible to receive benefits as of March 7, 2004. By this time the claimant found another part-time job because the employer had only been scheduling her an average of four hours a week. Since the employer was not scheduling the claimant to work any day hours, she accepted a job where she worked days. After the claimant told the employer she could not work any days or Sundays, the employer scheduled her to work at these times.

For the weeks ending March 13, 20 and 27, the claimant filed claims for benefits but reported gross wages of more than her maximum weekly benefit amount of \$185.00. The Department did not pay the claimant any benefits during these weeks. The claimant has not filed any weekly claims subsequent to March 27, 2004.

REASONING AND CONCLUSIONS OF LAW:

The decision the claimant appealed only held her ineligible as of March 7, 2004. Based on the wages the claimant reported, the representative may not have realized the wages the claimant reported were from two employers. Even if the claimant only earned wages during these weeks from the employer, which the facts do not support, she is not eligible to receive benefits for the weeks ending March 13, 20 and 27, because she had excessive wages. 871 IAC 24.18.

The claimant has not filed any claims subsequent to the week ending March 27, 2004. As a result, if or when she reopens her claim, her eligibility to receive benefits will be determined at that time.

DECISION:

The representative's April 5, 2004 decision (reference 03) is modified in the claimant's favor. Instead of denying the claimant benefits as of March 7, she is not eligible to receive unemployment insurance benefits during the weeks ending March 13, 20 and 27, 2004 because of excessive earnings. Since the claimant has not filed any claims after March 27, 2004, her eligibility to receive benefits if or when she reopens her claim will be determined at that time.

dlw/s