

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LAURA HENNESSEE
Claimant

APPEAL NO: 14A-UI-07979-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOOD SAMARITAN SOCIETY INC
Employer

OC: 06/29/14
Claimant: Appellant (1)

Section 96.4-3 – Able and Available for Work
Section 96.4-3 – Same Hours and Wages

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the July 24, 2014, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on September 9, 2014. The claimant participated in the hearing. Dorinda Krueger, Administrator, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant is still employed with the employer for the same hours and wages as contemplated in the original contract of hire.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a part-time CNA for Good Samaritan Society from March 1, 2001 to July 23, 2014. In June 2013 the claimant returned to nursing school and requested her status with the employer be changed to PRN. The employer complied with the claimant's request.

The claimant filed a claim for benefits with an effective date of June 29, 2014, because she was not able to work as many hours as she had previously because she was fatigued due to a non-work-related health condition. The employer had eight-hour shifts available but the claimant's physician limited her to four-hour shifts. The employer placed her in four-hour shifts but the claimant was not able to work enough hours to earn the amount of money she was previously making. Consequently, the claimant filed a claim for partial unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is not employed at the same hours and wages as contemplated in the original contract of hire due to a non-work-related medical condition.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in § 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in § 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of § 96.5, subsection 3 are waived if the individual is not disqualified for benefits under § 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.23(26) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant was hired as a part-time CNA. She separated from her employment with this employer July 23, 2014. Prior to July 23, 2014, the claimant asked to work PRN when she returned to nursing school in June 2013. She filed for partial unemployment insurance benefits effective June 29, 2014, because she has a non-work-related illness that prevents her from working eight-hour shifts and limits her to working four-hour shifts. The employer has eight-hour shifts available for the claimant but has also allowed her to work four-hour shifts. She is unable to work the same hours for the employer as contemplated in her original contract of hire. Consequently, the claimant is not eligible for partial unemployment insurance benefits.

DECISION:

The July 24, 2014, reference 01, decision is affirmed. The claimant is not employed at the same hours and wages as in her original contract of hire due to a non-work-related illness that limits her to working four-hour shift. The claimant is therefore not qualified for benefits based on her part-time/PRN employment. Benefits are denied.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/css