

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEBRA R ROBINSON BAKER**  
Claimant

**APPEAL NO. 16A-UI-05492-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THEISENS INC**  
Employer

**OC: 04/03/16**  
**Claimant: Appellant (1)**

Iowa Admin. Code r. 871-24.23(26) – Part-Time Worker – Same Wages and Hours  
Iowa Code § 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated May 12, 2016, reference 01, which held claimant not able and available for work. After due notice, a hearing was scheduled for and held on June 1, 2016. Claimant participated personally. Employer participated by Heidi Bergfeld and Mitch Klepper. Claimant's Exhibits A through C were admitted into evidence

**ISSUE:**

The issues are whether claimant is still employed at the same hours and wages and partially unemployed.

**FINDINGS OF FACT:**

The claimant currently works for Theisens, a base-period employer, part time under the same terms and conditions as contemplated in the original contract of hire. Prior to being hired by Theisens as a part-time employee, claimant had worked for Sedona Staffing and had been placed as a temporary employee at Theisen's. At this time she worked at or near full-time hours, as she was temporarily placed at Theisen's for the holiday season.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is not partially unemployed.

Iowa Code § 96.19-38 provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

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.

An individual shall be deemed partially unemployed in any week in which the individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Code § 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 section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 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 section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Claimant is working the same hours she'd been working throughout her entire time. Benefits are denied.

**DECISION:**

The May 12, 2016, reference 01, decision is affirmed. The claimant is not partially unemployed and benefits are denied.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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