

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TERRY L REYNOLDS**  
Claimant

**APPEAL NO. 10A-UI-04176-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WINFIELD MT UNION COMM SCHOOLS**  
Employer

**OC: 01/31/10**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available/Still Employed at the Same Hours & Wages  
871 IAC 24.23(23) – Limitation of Availability Due to Employment

**STATEMENT OF THE CASE:**

Terry Reynolds filed a timely appeal from a representative's decision dated March 9, 2010, reference 01, which denied benefits as of January 31, 2010 finding that the hours of his employment had removed the claimant from the labor market and, therefore, he did not meet the availability requirements of the law. After due notice, a telephone conference hearing was held on April 29, 2010. The claimant participated personally. The employer participated by Ms. Carmen Benson, Business Manager.

**ISSUE:**

The issue is whether the claimant has been available for work since establishing his claim for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Reynolds began employment with Winfield Mt Union Community Schools on August 24, 2009 and continues to be employed at the time of hearing. Mr. Reynolds was hired in the capacity of a "full-time" resource associate working seven hours per day Monday through Friday during the school term and is paid \$9.10 per hour. Mr. Reynolds generally works 8:00 a.m. until 3:30 p.m. in the resource associate capacity.

Mr. Reynolds also performed services for the school district in the capacity of a part-time basketball coach for the school district's junior high boys' and girls' basketball teams working four to six weeks during winter season in that part-time capacity. Mr. Reynolds is also employed as a part-time track coach for four to six weeks during the spring term.

It was agreed at the time of hire that Mr. Reynolds' part-time work as a coach for both the basketball and track teams would be on a part-time as-needed basis and that the claimant would be compensated by the hour. Mr. Reynolds continues to work in those capacities with no change in the agreement of hire.

Mr. Reynolds had previously opened a claim for unemployment insurance benefits based upon other employment. After a period of time Mr. Reynolds accepted the "full-time" resource associate teaching position to provide income until he was able to find another position that paid more and offered more benefits.

Although the claimant is engaged in these employment endeavors, it is the claimant's position that he should be eligible to receive unemployment insurance benefits as he was looking for other employment and making two online or in-person job contacts each week.

### **REASONING AND CONCLUSIONS OF LAW:**

The question is whether Mr. Reynolds has been able and available since he established his claim for benefits on January 31, 2010. Included in this issue is the issue of whether Mr. Reynolds has unreasonably restricted his availability for work by being employed "full time" by the school district thereby making himself unavailable for work. Also included in the issue is whether Mr. Reynolds continues to be employed as a junior high school coach and still employed at the same hours and wages as agreed upon in the contract of hire.

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 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".

871 IAC 24.22(2) provides:

Benefits eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

(2) Available for work. The availability requirement is satisfied when an individual is willing, able, and ready to accept suitable work which the individual does not have good cause to refuse, that is, the individual is genuinely attached to the labor market. Since, under unemployment insurance laws, it is the availability of an individual that is required to be tested, the labor market must be described in terms of the individual. A labor market for an individual means a market for the type of service which the individual offers in the geographical area in which the individual offers the service. Market in that sense does not mean that job vacancies must exist; the purpose of unemployment insurance is to compensate for lack of job vacancies. It means only that the type of services which an individual is offering is generally performed in the geographical area in which the individual is offering the services.

871 IAC 24.23(23), (26) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

(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 evidence in the record establishes that Mr. Reynolds has a history of full-time employment at the time he applied for unemployment insurance benefits. The evidence indicates that after Mr. Reynolds sought new employment for a period of time he chose to accept employment with the Winfield Mt Union Community Schools in what the district categorizes as full-time employment as a resource associate. In that capacity Mr. Reynolds performed services for the school district throughout the normal school day, 8:00 a.m. until 3:30 p.m. Monday through Friday during the school year and is paid \$9.10 per hour for the services that he performs. Because Mr. Reynolds is employed in this capacity, he is not available for work during the majority of the normal work day and thus has restricted his availability by being employed essentially full time by this employer. For these reasons Mr. Reynolds does not meet the unemployment insurance eligibility requirements set forth in Iowa Code section 96.4(3).

The evidence in the record establishes that Mr. Reynolds continues to be employed in a part-time capacity as a junior high coach working the same hours and wages as contemplated in the original contract of hire. Therefore, the claimant does not work on a reduced workweek basis from the contract of hire and as such the claimant cannot be considered partially unemployed when his services as a part-time coach are not being utilized.

Based upon the evidence in the record and the application of the appropriate law, the administrative law judge concludes that Mr. Reynolds has not been able and available for work since establishing his most recent claim for benefits and is, therefore, ineligible for benefits effective January 31, 2010.

**DECISION:**

The agency representative's March 9, 2010, reference 01, decision is affirmed. Since establishing his claim for benefits January 31, 2010, the claimant has not met the availability

requirements set forth in Iowa Code section 96.4(3). Claimant is ineligible for benefits effective January 31, 2010.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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