

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

KEANDRA M CARPENTER
Claimant

APPEAL NO. 15A-UI-08824-TN-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

SLB OF IOWA LC
Employer

OC: 07/12/15
Claimant: Appellant (1)

Section 96.4-3 – Able and Available
Section 96.4-3 – Still Employed at Same Hours and Wages

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated August 3, 2015, reference 01, which held the claimant not eligible for partial unemployment benefits effective July 12, 2015 upon a finding that the claimant was still employed part time at the same hours and wages as in the original agreement of hire and, therefore, could not be considered to be partially unemployed. After due notice was provided, a telephone hearing was held on August 26, 2015. The claimant participated personally. The employer participated by Ms. Karen Beard, Human Resource Manager and Ms. Koresa Serrano, Assistant Manager. Employer's Exhibit A was offered into the record but not received into evidence.

ISSUE:

The issue is whether the claimant is still employed part time at the same hours and wages as agreed on in the original agreement of hire.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: The claimant began employment with this employer, doing business as Panera Bread Iowa, on August 23, 2014 and continues to be employed at the time of hearing. Ms. Carpenter was hired as a part-time associate with no guarantees of the minimum number of working hours each week. The claimant was hired to be paid by the hour and continues to be paid by the hour at a higher rate than she was hired for. The claimant's availability for work is limited at times by her school schedule, however, Ms. Carpenter desires to be given at least 27 hours of work each week to meet her financial needs. When the claimant's working hours fluctuated in July 2015 due to business needs, Ms. Carpenter filed a claim for partial unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

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 evidence in the record establishes that the claimant was hired as a part-time worker with no guarantee as to the minimum number of hours that she might be assigned to work any week and was paid at the rate of \$8.00 per hour at the time of hire. The claimant is still working part time for this employer and is paid at the same or greater rate per hour. Ms. Carpenter continues to be employed at a part-time position as was agreed to at the time of hire. The claimant was made aware at the time of hire that her working hours depended upon the employer's business needs. That requirement has not changed. The claimant's reduced work weeks are therefore no different than agreed upon by the parties in the original agreement of hire. Partial unemployment insurance benefits are denied as of July 12, 2015.

DECISION:

The representative's decision dated August 3, 2015, reference 01, is affirmed. Benefits are denied as of July 12, 2015. The claimant is still employed part time at the same hours and wages as contemplated in the original agreement of hire.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

css/css