

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TAMMY K GEWEKE**  
Claimant

**APPEAL NO. 09A-UI-01573-AT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**RED FOX INN**  
Employer

**OC: 11/30/08 R: 03  
Claimant: Appellant (1)**

Section 96.4-3 – Eligibility for Benefits

**STATEMENT OF THE CASE:**

Tammy K. Geweke filed a timely appeal from an unemployment insurance decision dated January 29, 2009, reference 02, that denied benefits to her effective January 4, 2009 upon a finding that she was not unemployed. After due notice was issued, a telephone hearing was held February 20, 2009 with Ms. Geweke participating. Business Manager Tammy Hall participated for the employer, Red Fox Inn. This matter is considered on a consolidated record with 09A-UI-01572-AT.

**ISSUE:**

Is the claimant partially unemployed?

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Tammy K. Geweke has been employed as a housekeeper by Red Fox Inn since January 28, 2008. Her hours have always varied depending upon the occupancy rate at the employer's business. She has not been promised any specific number of hours.

**REASONING AND CONCLUSIONS OF LAW:**

The question is whether the evidence establishes that the claimant is eligible for unemployment insurance benefits. It does not.

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".

In order to establish eligibility for benefits, a claimant must show that he or she is totally or partially unemployed. The evidence in this record does not show any change in the claimant's employment status. She continues to work the numbers of hours available based upon the employer's business needs. Benefits must be withheld.

**DECISION:**

The unemployment insurance decision dated January 29, 2009, reference 02, is affirmed. The claimant is ineligible to receive unemployment insurance benefits.

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Dan Anderson  
Administrative Law Judge

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Decision Dated and Mailed

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