

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHELSEA L KILGORE
Claimant

APPEAL NO. 14A-UI-00430-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MIDWEST OPPORTUNITIES INC
Employer

OC: 12/15/13
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Chelsea Kilgore (claimant) appealed a representative's January 9, 2014, decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits because she is still employed in her job for the same hours and wages as she was hired by Midwest Opportunities (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 6, 2014. The claimant did provide a telephone number but could not be reached at that number. She, therefore, did not participate. The employer participated by Tami Snider, Creston Site Supervisor, and Katrina Fleharty, Chief Financial Officer/ Human Resources Director.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on October 8, 2009, as a part-time residential trainer one. The claimant signed for receipt of the employer's handbook on October 23, 2013. The handbook indicates that part-time workers will work from 8 to 29.75 hours per week. Substitute employees work at least 8 hours every other pay period. A pay period is two weeks long.

On October 28, 2013, the claimant requested that her status change to substitute employee effective November 11, 2013. The employer granted the claimant's request. The employer understood that the claimant requested the change because she started working for a second employer. The claimant continues to work for the employer as a substitute trainer one.

The claimant filed for unemployment insurance benefits with an effective date of December 15, 2013. She has no other wages in the base period history from any other employer. She has wages in her lag quarter, fourth quarter of 2013, from Great Plains Specialty.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 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 worker and is still working part-time for the employer. She asked that those part-time hours be changed and the employer complied. The change in hours was initiated by the claimant. She is still employed in a part-time position as was agreed to at the time she was hired. The claimant is disqualified from receiving unemployment insurance benefits because she was not available for work.

DECISION:

The representative's January 9, 2014, decision (reference 03) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she was not available for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs