

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JANINE AMBROSE**  
Claimant

**APPEAL NO: 11A-UI-06363-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HAWKEYE COMMUNITY COLLEGE**  
Employer

**OC: 03/27/11  
Claimant: Appellant (4)**

Iowa Code § 96.4-3 - Able and Available for Work

**STATEMENT OF THE CASE:**

Janine Ambrose (claimant) appealed an unemployment insurance decision dated May 10, 2011, reference 03, which held that she was not eligible for unemployment insurance benefits because she was still working the same hours and wages with Hawkeye Community College (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 9, 2011. The claimant participated in the hearing. The employer participated through LaTonya Price, Associate Director of Human Resource Services. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

The issue is whether the claimant is working the same hours and wages as in her original contract of hire with this employer.

**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 as a part-time temporary instructor-personal enrichment on October 5, 2010 with no guarantee of hours. There has been no change in her contract of hire and she is still working the same hours and wages with this employer.

The claimant separated from Cass County Publishing, her full-time employer, in April 2010 and she was found eligible for benefits based on that separation.

**REASONING AND CONCLUSIONS OF LAW:**

The issue to be determined is whether the claimant is still employed with the employer for the same hours and wages as contemplated in the original contract of hire.

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".

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 temporary instructor-personal enrichment. There has been no separation from her part-time employment and she is currently working for this employer at the same hours and wages as contemplated in her original contract of hire. The claimant is disqualified from receiving benefits from this employer.

However, the claimant separated from her full-time employer in April 2010 and was qualified for benefits based on that separation.

**DECISION:**

The unemployment insurance decision dated May 10, 2011, reference 03, is modified in favor of the appellant. The claimant continues to be employed part-time in the same hours and wages as contemplated in the original agreement of hire. Benefits are denied from this employer and its account is not subject to charge. The claimant continues to be qualified for benefits based on her separation from Cass County Publishing, provided she is otherwise eligible.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/pjs