

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ROXANNE M LONG**  
Claimant

**APPEAL NO. 11A-UI-02812-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY  
CASEY'S GENERAL STORES**  
Employer

**OC: 05/23/10**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available for Work

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

**STATEMENT OF THE CASE:**

Roxanne Long filed an appeal from a representative's decision dated February 28, 2011, reference 05, which denied benefits because the claimant was still employed part time at the same hours and wages. After due notice was issued, a telephone conference hearing was scheduled for and held on March 30, 2011. The claimant participated personally. Although duly notified, the employer did not participate.

**ISSUE:**

The issue in this matter is whether the claimant is still employed part time at the same hours and wages.

**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 work for this employer in September 2010 and continues to work on a part-time basis as a cashier and cook at the time of hearing. At the time of hire, Ms. Long was hired to work as a part-time worker and was aware that the employer guaranteed no minimum number of working hours each week. The claimant's rate of pay at the time of hearing was the same or higher than the rate at the time that she began employment.

**REASONING AND CONCLUSIONS OF LAW:**

Based upon the evidence in the record, the administrative law judge concludes the claimant is disqualified for being unavailable for work because she is employed part time at the same hours and wages as agreed upon in the original contract of hire. The claimant is not working on a reduced work week or different from the contract of hire at the time of hearing.

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.

For the reasons stated herein the administrative law judge concludes the claimant is disqualified from benefits effective January 26, 2010 for being unavailable for work as she is still employed at a part-time job with the same hours and wages as contemplated in the original agreement of hire.

**DECISION:**

The representative's decision dated February 28, 2011, reference 05, is affirmed. The claimant is still employed in a part-time capacity at the same hours and wages contemplated at the time of hire. She is, therefore, disqualified from benefits for being unavailable for work.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

pjs/pjs