

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CARLA R GUNDERSON
Claimant

APPEAL NO. 11A-UI-10801-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ELDORA & NEW PROVIDENCE COMM
Employer

OC: 04/10/11
Claimant: Appellant (1)

Iowa Code § 96.4(3) – Partially Unemployed When Working a Part Time Job

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's August 12, 2011 determination (reference 02) that held she was ineligible to receive benefits as of April 10, 2011, because she was working the hours she had been hired to work by her then base period employers and could not be considered partially unemployed. The claimant participated in the hearing. Cindy Bierle, the business manager, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not eligible to receive benefits as of April 10, 2011, because she was partially unemployed based on the wages credits she earned during her current base period.

ISSUE:

As of April 10, 2011, is the claimant partially unemployed and eligible to receive benefits?

FINDINGS OF FACT:

In August 2009, the employer, an educational institution, hired the claimant to work as a musical accompanist during the school year. The claimant works about ten hours a week during the school year for the employer. The employer hired the claimant for this job again during the 2010-2011 school year and the 2011-2012 school years. The claimant has always agreed to work about ten hours a week as a musical accompanist.

Based on a benefit year that was established during the week of April 10, 2011, the claimant's base period employers, in addition to the employer, are Supper Club of Union, Inc. and McDonald Forr, Inc. (H & R Block). Her maximum weekly benefit as of April 10, 2011, is \$96.

The claimant started going to school full time in January 2010. The claimant works when her friend needs her at the Supper Club and works 15 to 18 hours a week, and January through April 15 at H & R Block. The first two weeks in April 2011, the claimant worked about ten hours a week at H & R Block in addition to working for the employer. The claimant started a full-time job at Quality Products on April 19, 2011.

The claimant filed claims for partial benefits for the weeks ending April 16 and 23, 2011.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits she must be able to and available for work. Iowa Code § 96.4(3). When a claimant is still employed in a part-time job at the same hours and wages as contemplated when hired and is not working a reduced work week, she cannot be considered partially unemployed or eligible to receive benefits. 871 IAC 24.23(26).

Since the claimant's base period only has wages from her part-time employment with the employer, seasonal work from H & R Block and on-call work from Supper Club of Union, Inc, the claimant cannot be considered partially unemployed for unemployment insurance purposes. This is supported by the fact her maximum weekly benefit on her April 10, 2011 claim is \$96. The record indicates the claimant earned more than her weekly benefit amount the weeks ending April 16 and 23, 2011. The claimant is not eligible to receive benefits for the weeks ending April 16 and 23, 2011, because she is not partially unemployed.

DECISION:

The representative's August 12, 2011 determination (reference 02) is affirmed. The claimant is not eligible to receive benefits for the weeks ending April 16 and 23, 2011, because she is not partially unemployed these weeks.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw