

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

SHENELL D MOORE
2332 – 12TH ST
CORALVILLE IA 52241

PRN STAFFING INC
3122 MAPLEWOOD LANE
IOWA CITY IA 52245

Appeal Number: 06A-UI-00720-JTT
OC: 12/11/05 R: 03
Claimant: Respondent (4)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.7(2)(a)(2) – Still Employed - Same Hours, Same Wages
871 IAC 23.43(4)(a) – Part-time Supplemental Employment

STATEMENT OF THE CASE:

PRN Staffing filed a timely appeal from the January 12, 2006, reference 02, decision that found the claimant able and available for work beginning December 11, 2005, and allowed benefits. After due notice was issued, a hearing was held on February 13 2006. Claimant Shenell Moore did not respond to the hearing notice instructions to provide a telephone number for the hearing and did not participate. Owner Kathleen Nicholson represented the employer.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a claim for benefits that was effective December 11, 2005. The claim was established in connection with the claimant's separation from her regular employer. The

claimant's employment with PRN Staffing was, and is, part-time supplemental employment. The claimant is a certified nursing assistant. PRN Staffing supplies temporary nurses and nursing assistants to long-term care facilities. The claimant is not required to work any set amount of hours and is offered work based on the needs of the long-term care facilities. The claimant may decline offered shifts. PRN Staffing is a base period employer being assessed for benefits paid to the claimant. However, the claimant continues to work under the same conditions as existed during the base period, including the same wage, the same offer of shifts, and the same right to decline offered shifts. The claimant has declined shifts offered by PRN Staffing since establishing her claim for benefits.

REASONING AND CONCLUSIONS OF LAW:

The question is whether the evidence in the record establishes that PRN Staffing may be relieved of benefit charges.

Iowa Code section 96.7-2-a(2) provides:

2. Contribution rates based on benefit experience.

a. (2) The amount of regular benefits plus fifty percent of the amount of extended benefits paid to an eligible individual shall be charged against the account of the employers in the base period in the inverse chronological order in which the employment of the individual occurred.

However, if the individual to whom the benefits are paid is in the employ of a base period employer at the time the individual is receiving the benefits, and the individual is receiving the same employment from the employer that the individual received during the individual's base period, benefits paid to the individual shall not be charged against the account of the employer. This provision applies to both contributory and reimbursable employers, notwithstanding subparagraph (3) and section 96.8, subsection 5.

An employer's account shall not be charged with benefits paid to an individual who left the work of the employer voluntarily without good cause attributable to the employer or to an individual who was discharged for misconduct in connection with the individual's employment, or to an individual who failed without good cause, either to apply for available, suitable work or to accept suitable work with that employer, but shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The amount of benefits paid to an individual, which is solely due to wage credits considered to be in an individual's base period due to the exclusion and substitution of calendar quarters from the individual's base period under section 96.23, shall be charged against the account of the employer responsible for paying the workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17, or responsible for paying indemnity insurance benefits.

871 IAC 23.43(4)a provides in part:

(4) Supplemental employment.

a. An individual, who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer, continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges....

Based on the statute and administrative rules cited above, the administrative law judge concludes that PRN Staffing should be relieved of benefit charges. This decision will have no impact on Ms. Moore's eligibility for benefits.

DECISION:

The agency representatives, January 12, 2006, reference 02, decision is affirmed but modified as follows. The claimant is able and available for employment. The employer is relieved of benefit charges pursuant to Iowa code section 96.7(2)(a)(2) and Workforce Development Rule 23.43(4)(a).

jt/kjw