

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELISSA A COLLETT**  
Claimant

**APPEAL NO: 10A-UI-02243-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 01/03/10**  
**Claimant: Appellant (4)**

Section 96.4-3 – Able and Available  
871 IAC 23.43(4) – Supplemental Employment/Relief of Charges

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated February 3, 2010, reference 02, that held she was not eligible for benefits effective November 1, 2009, as she was still employed. A telephone hearing was held on March 30, 2010. The claimant participated. Dawn Bonjour, Store Manager, participated for the employer.

**ISSUES:**

Whether the claimant is able and available for work.

Whether the employer should be relieved of benefit charges.

**FINDINGS OF FACT:**

The administrative law judge having heard the testimony of the witnesses, and having considered the evidence in the record, finds: The claimant worked for her regular employer, Pella Corporation, and experienced periodic layoffs from employment that caused her to file unemployment claims beginning January 4, 2009. The claimant began a part-time job at Casey's on May 21, 2009. The claimant was granted department approved training on October 20, 2009 to attend the Iowa School of Beauty from October 4 to January 2, 2010. The claimant filed a second benefit year claim effective January 3, 2010, and she was granted further department approved training on January 13 for the period from January 3 to June 5, 2010. The claimant is a full-time student, but she has continued her part-time job at Casey's through the date of this hearing.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 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 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....

The administrative law judge concludes that the claimant is eligible to receive benefits effective November 1, 2009, and due to supplemental employment with Casey's, the employer is relieved of liability for claimant's unemployment claim. The claimant need only be available for part-time work, as she is not required to search for work while in training.

The supplemental employment provision of the Iowa Employment Security Law allows a part-time employee to be eligible for benefits after separating from a regular employer (Pella Corporation) while continuing to work part time (for Casey's). The claimant should not be penalized for being a full-time student in department approved training and working a part-time job, but the part-time employer is not charged for benefits paid to the claimant.

**DECISION:**

The department decision dated February 3, 2010, reference 02, is modified. The claimant is eligible for benefits effective November 1, 2009 as part-time, supplemental employment, and the employer is relieved of liability. Benefits are allowed, provided the claimant is otherwise eligible.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

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