

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ROBERT L CRIPPS
Claimant

APPEAL NO: 10A-UI-11084-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**THE IOWA PRIMATE LEARNING
SANCTUARY**
Employer

**OC: 06/13/10
Claimant: Appellant (4)**

Section 96.4-3 – Able to and Available for Work
871 IAC 24.23(6) Working Same Hours Hired to Work

STATEMENT OF THE CASE:

The claimant appealed a representative's July 26, 2010 decision (reference 01) that held he was not eligible to receive benefits as of June 13, 2010, because he was not partially unemployed. A telephone hearing was held on September 23, 2010. The claimant participated in the hearing. Mike German, the director of public safety, and Susan McKee, the director of operations, appeared on the employer's behalf. 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:

Is the claimant working the same hours and wages that the employer hired him to work?

FINDINGS OF FACT:

On July 31, 2009, the employer hired the claimant to work part time and as needed as a public safety officer. The claimant typically works 30 to 40 hours a week and earns an average weekly wage of \$450.00.

The claimant established a subsequent benefit year during the week of June 13, 2010. During this claim year, he is eligible to receive a maximum weekly benefit amount of \$374.

The claimant filed claims for the weeks ending June 19 through July 17, 2010. He reported wages of more than \$389.00 for every week except the week ending July 17, 2010. This week the claimant reported gross wages of \$300.00. The claimant has not filed any other weekly claims.

REASONING AND CONCLUSIONS OF LAW:

If a claimant is still employed in a part-time job at the same hours and wages as contemplate in the original contract for hire and is not working on a reduced workweek, the claimant cannot be considered partially unemployed. 871 IAC 24.23(26).

The facts indicate the claimant usually earns weekly wages of \$450.00. If the claimant earns \$389.00 or more a week, he is not eligible to receive benefits because of excessive earnings. 871 IAC 24.18. While the claimant may ask for reduced hours in some weeks, the evidence does not establish he asked for reduced hours the week ending July 17, 2010. Since the claimant only earned \$300.00 during the week ending July 17, he is eligible to receive partial benefits for this week because of his reduced workweek.

DECISION:

The representative's July 26, 2010 decision (reference 01) is modified in the claimant's favor. Since the claimant usually earns more than \$389.00 a week in wages, he is not eligible for benefits these weeks because of excessive earnings. In weeks in which the clamant earns less than \$389.00 in gross wages, he is eligible to receive partial benefits as long as he has worked all the hours the employer scheduled him to work. The claimant is eligible to receive benefits for the week ending July 17, 2010.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css