

BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319

PATRICK F GERAGHTY

Claimant

HEARING NUMBER: 17BUI-02064

EMPLOYMENT APPEAL BOARD
DECISION

N O T I C E

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.4-3, 24.22-2

D E C I S I O N

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

The Board in affirming the Administrative Law Judge has considered the Claimant's argument that the job in question was an "odd job" and thus he can be considered partially unemployed. The requirements for earnings to qualify as "odd job earnings" include that the earnings are "a result of temporary work..." 871 IAC 24.1(86). All the record shows is that the Claimant had no guarantee of work past a certain date. We do not interpret "temporary" to mean that one has no guarantee of work. The general rule in Iowa is that employment is "at will." Further, many jobs depend on economic circumstances, competition from other businesses, etc. Most workers in the state have no *guarantee* of work day to day, and can lose a job at any time. This does make most work in the state "temporary" within the meaning of rule 24.1(86). Instead, temporary work in this context means work for a set term, or work for an employment broker on a given assignment, or even work on a given project of limited duration. This designation of "temporary" does not depend on a worker's subjective attitude toward the work, or on the fact that continued employment is *uncertain*. In order to be temporary the termination of the employment has to be

at date *certain*, or

reasonably certain, not too far in the future. We rule this way because otherwise a system designed to keep people on their feet while looking for suitable work would be transformed into an income supplement system helping people to transition to lower paying jobs. We are sympathetic to the Claimant, but since the full-time job in question has not been shown to be “temporary work” as that term is used in rule 24.1(86), we cannot find the Claimant is available for work.

Finally, we note that if the Claimant does eventually lose the work in question, and he is still within the benefit year, he should at that time apply for benefits again by reactivating his claim.

Kim D. Schmett

Ashley R. Koopmans

James M. Strohman

RRA/fnv