

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GWENDOLYN BRIDGES

Claimant

APPEAL NO. 11A-UI-02811-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BEATON INC

Employer

OC: 01/23/11

Claimant: Appellant (1)

Section 96.4-3 – Still Employed at the Same Hours and Wages

871 IAC 24.23(26) – Part-Time Job - Same Hours and Wages

STATEMENT OF THE CASE:

Gwendolyn Bridges filed a timely appeal from a representative's decision dated March 4, 2011, reference 01, which denied benefits because the claimant was still employed part-time at the same hours and wages. After due notice was issued, a telephone hearing was held on March 30, 2011. The claimant participated personally. The employer participated by Ms. Kathy Frerichs, controller, and Ms. Rhonda Snyder, assistant manager.

ISSUE:

The issue in this matter is whether the claimant is still employed part-time at the same hours and wages.

FINDINGS OF FACT:

The administrative law judge, having considered the evidence in this record, finds: Gwendolyn Bridges began employment with Beaton, Inc., doing business as Burger King, on May 26, 2008, and remains employed at the time of hearing. Ms. Bridges was hired to work as a part-time crew member at the rate of \$7.25 per hour. At the time of hire, all employees are informed that there is no minimum number of working hours guaranteed to part-time employees. Ms. Bridges filed a claim for unemployment insurance benefits with an effective date of January 23, 2011, because her part-time working hours had been reduced. In the month of January, Ms. Bridges had not made herself available for all working hours that otherwise would have been assigned to her. The claimant continues to be employed in a part-time capacity working part-time hours that are available and her wage remains the same.

REASONING AND CONCLUSIONS OF LAW:

Based upon the evidence in the record, the administrative law judge concludes the claimant is disqualified for being unavailable for work because she is still employed in a part-time job at the same hours and wages agreed upon in the original contract of hire. The claimant is not working on a reduced work week different from the contract of hire at the time of hearing.

871 IAC 24.23(26) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(26) Where a claimant is still employed in a part-time job at the same hours and wages as contemplated in the original contract for hire and is not working on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

For the reasons stated herein, the administrative law judge concludes the claimant is disqualified from benefits effective January 23, 2011, for being unavailable for work. She is still employed at a part-time job at the same hours and wages as contemplated under the original agreement of hire.

DECISION:

The representative's decision dated March 4, 2011, reference 01, is affirmed. The claimant is still employed in a part-time capacity at the same hours and wages contemplated at the time of hire. She is therefore disqualified from benefits for being unavailable for work.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw