

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TAMMY ROBINSON
Claimant

APPEAL NO: 13A-UI-02994-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

COVENANT MEDICAL CENTER INC
Employer

OC: 02/10/13
Claimant: Appellant (1R)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Tammy Robinson (claimant) appealed a representative's March 11, 2013 decision (reference 02) that concluded she was not eligible to receive unemployment insurance benefits because she is still employed in her job for the same hours and wages as she was hired by Covenant Medical Center (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 10, 2013. The claimant participated personally. The employer participated by Suzanne Burt, Human Resources Director, and Randy Vorland, Director of Environmental Services.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable for work. .

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on June 25, 2012,, as a part-time housekeeper working as needed. The employer did not guarantee the claimant a certain number of hours per week. The claimant worked approximately 30 hours per week until she suffered work-related injuries on October 5 and November 15, 2012. The claimant was returned to work with restrictions and worked approximately 20 hours per week through March 4, 2013. On March 5, 2013, the claimant was released by the physician to return to work without restrictions. On March 5, 2013, the employer no longer had any work for the claimant.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant was hired as a part-time worker and was still working part time for the employer until the employer no longer had work for the claimant. She was still employed in a part-time position as was agreed to at the time she was hired. The claimant is disqualified from receiving unemployment insurance benefits as of February 10, 2013.

The issue of the claimant's separation from employment on March 5, 2013, is remanded for determination.

DECISION:

The representative's March 11, 2013 decision (reference 02) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she was not available for work. The issue of the claimant's separation from employment on March 5, 2013, is remanded for determination.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css