

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JUDY K GRIFFIN

Claimant

APPEAL NO. 12A-UI-11703-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRANDON WITHERS

Employer

OC: 08/12/12

Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Judy Griffin (claimant) appealed a representative's September 17, 2012 decision (reference 03) that concluded she was not eligible to receive unemployment insurance benefits because she was still employed in her job for the same hours and wages as she was hired by Brandon Withers (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 24, 2012. The claimant participated personally. The employer participated by Sarah Kennedy, Consumer Choices Option Representative 2, and Tammy Gobeli, mother of the Brandon Withers.

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 having considered all of the evidence in the record, finds that: The claimant was hired on June 1, 2011, as a part-time care provider. At the time of hire, she was told that her part-time hours depended upon the budget. The claimant consistently worked approximately 43 hours per month from May through August 2012. The claimant filed for unemployment insurance benefits with an effective date of August 12, 2012. The claimant has all part-time wages in her base period.

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 is still working part-time for the employer. She is 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.

DECISION:

The representative's September 17, 2012 decision (reference 03) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw