

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GEORGE A THOMAS**  
Claimant

**APPEAL NO. 08A-UI-00922-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WORKSOURCE INC**  
Employer

**OC: 01/06/08 R: 02  
Claimant: Appellant (1)**

Section 96.4-3 – Still Employed at Same Hours and Wages  
871 IAC 24.23(26) – Part-Time Job - Same Hours, Same Wage

**STATEMENT OF THE CASE:**

George Thomas filed an appeal from a representative's decision dated January 28, 2008, 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 conference hearing was scheduled for and held on February 11, 2008. The claimant participated personally. The employer participated by Missy Lackore.

**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 heard the testimony and having considered all the evidence in the record, finds: The claimant worked for this employer beginning July 30, 2007, and continues to work as a part-time cashier working only at the Iowa Events Center for Ovations Food Company. At the time of hearing, the claimant continued to be employed in that capacity accepting part-time assignments at the Iowa Events Center for Ovations Foods.

By agreement between the parties at the time of hire, Mr. Thomas has been assigned to work at the above-stated client location on a part-time basis. The claimant continues to be employed in that capacity, working part-time hours that are available and wage remains the same.

**REASONING AND CONCLUSIONS OF LAW:**

Based upon the evidence in the record, the administrative law judge concludes that the claimant is disqualified for being unavailable for work because he is still employed in a part-time job at the same hours and wages as agreed upon in the original contract of hire. The claimant is not working on a reduced workweek and 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 6, 2008, for being unavailable for work, as he is still employed at a part-time job at the same hours and wages as contemplated in the original agreement of hire.

**DECISION:**

The representative's decision dated January 28, 2008, 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. He is therefore disqualified from benefits for being unavailable for work.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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