

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ANTHONY M SMITH**  
Claimant

**APPEAL NO. 14A-UI-01205-S2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CITY OF DES MOINES**  
Employer

**OC: 12/22/13**  
**Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

**STATEMENT OF THE CASE:**

Anthony Smith (claimant) appealed a representative's January 22, 2014, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he is still employed in his job for the same hours and wages as he was hired by City of Des Moines (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 24, 2014. The claimant participated personally and through his mother, Alice Smith. The employer and participated by Heather Brady, Human Resources Manager; Tim Smith, Parks and Recreation Supervisor; and Vivone Abdel-Razeq, Human Resource Generalist. The employer offered and Exhibit One was received into evidence.

**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 11, 2008. On March 28, 2012, the claimant became a part-time parks and recreation associate. He signed a Terms of Employment document on May 15, 2012, that states as follows:

I, Anthony M. Smith, understand that the Park & Recreation Associate position that I have accepted is Regular Less than Half-Time with the City of Des Moines Park and Recreation Department. I further understand that I may work up to 40 hours weekly during the months of May through August and prior to and after this period my work hours will be reduced working up to 19 hours weekly provided availability of work.

The claimant continues to work for the employer with the same terms and conditions. He filed for unemployment insurance benefits with an effective date of December 22, 2013.

**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. He is still employed in a part-time position as was agreed to at the time he was hired. The claimant could be called for work by the employer at any time. He is not able and available for work and not eligible to receive unemployment insurance benefits

**DECISION:**

The representative's January 22, 2014, decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits as of December 22, 2013.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/pjs