

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

WANDA S PERKINS
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WAPELLO IA 52653

HARTSOCK, CELIA
VIDEO SHACK
324 VAN BUREN ST
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Appeal Number: 06A-UI-03017-SWT
OC: 01/01/06 R: 04
Claimant: Respondent (4)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 - Availability for Work
871 IAC 23.43(4) - Supplemental Employment

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated March 7, 2006, reference 02, that concluded the claimant was eligible to receive unemployment insurance benefits and its account was subject to charge for benefits paid to the claimant. A telephone hearing was held on April 4, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing. Celia Hartsock participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant works seasonally for the Indian Hills Golf Course. After her work ended for the season in October 2005, the claimant was hired to work part time for the employer on a temporary basis until her seasonal job started up again.

The claimant worked for the employer from November 1, 2005, to March 29, 2006, when she left employment to go back to work for the Indian Hills Golf Course. When she worked for the employer, she was not guaranteed any specific number of hours or days of work per week. The claimant worked all of the hours that the employer had available. The employer never reduced her hours during the time that she worked for the employer.

The claimant filed a new claim for unemployment insurance benefits with an effective date of January 1, 2006. The employer is not a base-period employment on the claim and is not currently chargeable for any benefits paid to the claimant.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code Section 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

The claimant is able to and available for work. She filed for benefits because her regular employer laid her off and her supplemental employment does not disqualify her from receiving unemployment insurance benefits.

Instead, this case is governed by 871 IAC 23.43(4)a, which deals with a situation where an individual has supplemental employment in addition to her regular employment.

871 IAC 23.43(4)a provides in part:

(4) Supplemental employment.

a. An individual, who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer, continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges....

The claimant is eligible for benefits, and the employer's account will not be charged for any benefits in the future since the employer provided the claimant with the same employment as provided during the base period and she left the job to accept other employment.

DECISION:

The unemployment insurance decision dated March 7, 2006, reference 02, is modified in favor of the employer. The claimant is eligible to receive unemployment insurance benefits. The employer's account will in the future be exempt from charge for any benefits paid to the claimant.

saw/tjc