

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ELIZABETH A MUNZ**  
Claimant

**DOGLENCORP LLC**  
Employer

**APPEAL 17R-UI-00282-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/16/16  
Claimant: Appellant (5-R)**

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Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Code § 96.19(38)a & b – Total and Partial Unemployment

**STATEMENT OF THE CASE:**

Elizabeth A. Munz (claimant) filed an appeal from the November 10, 2016 (reference 01) unemployment insurance decision that denied benefits based upon the determination she has not made adequate arrangements for child care which unduly limits her availability for work. The parties were properly notified about the hearing. A telephone hearing was held on February 3, 2017. The claimant participated personally. Dolegencorp, LLC (employer) did not participate. Claimant's Exhibit A was received.

**ISSUES:**

Does the claimant meet the definition of being considered partially unemployed?  
Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant was hired to work full-time as a Clerk. From the first quarter of 2014 through the first week of September 2016, the employer did have full-time work available for the claimant as contemplated in the original contract of hire as established by the base period work history.

The first week of September 2016, the claimant asked to move to a part-time position due to child care issues. She understood part-time hours meant she would be scheduled 25 hours or less per week. Her supervisor gave her permission to go part-time. In October 2016, the employer hired new employees and they were scheduled for training.

The claimant filed her claim for unemployment insurance benefits the week of October 16, 2016 as she was not scheduled for any hours that week. She also claimed for benefits the week ending October 29, 2016 as she did not receive any hours that week either. The claimant separated from her employment on November 2, 2016.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not partially unemployed for the two weeks ending October 29, 2016.

Iowa Code § 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".

Iowa Code § 96.19(38) provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Because the claimant was still employed with the employer, asked to work only part-time hours, and was not guaranteed full-time hours, the claimant is not considered to be unemployed within the meaning of the law. When an individual works in a part-time capacity, the implied agreement is that full-time work will not be regularly available. Thus since the employer provided 25 hours or less and the claimant was employed under the same hours and wages as contemplated when she moved to a part-time position, she is not considered partially unemployed. Benefits are denied.

**DECISION:**

The November 10, 2016 (reference 01) unemployment insurance decision is modified with no change in effect. The claimant was not partially unemployed and benefits are denied.

**REMAND:**

The issue of the claimant's separation from employment on November 2, 2016 is remanded to the Benefits Bureau for an initial investigation and determination.

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Stephanie R. Callahan  
Administrative Law Judge

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Decision Dated and Mailed

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