

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFREY A YARDLEY
Claimant

APPEAL NO. 11A-UI-12736 -VST

**ADMINISTRATIVE LAW JUDGE
DECISION**

RBA INC
Employer

OC: 08/14/11
Claimant: Appellant (1)

Section 96.4-3 – Able and Available
Section 96.19-38-b Eligibility for Partial Unemployment Insurance Benefits

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated September 19, 2011, reference 01, which held the claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on October 14, 2011. The claimant participated with the assistance of his father. The employer did not respond to the hearing notice and did not participate in the hearing. Official notice is taken of agency records.

ISSUE:

Is the claimant employed by the employer for less than his usual hours and wages even though he remains able and available for work, and is he therefore eligible for partial unemployment insurance benefits?

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, makes the following findings of fact:

The claimant established an original claim for benefits on August 16, 2009, following a non-disqualifying separation of employment from Walgreens, a full time employer. The claimant subsequently obtained part-time employment and received partial unemployment insurance benefits. A second benefit year was established on August 15, 2010. A third benefit year was established on August 14, 2011. The only wages in this claimant's base period for the August 14, 2011, were part-time wages from two part time employers: RBA and Aramark Sports. The wages from Walgreens were no longer in his base period. The claimant continues to work both of these part-time jobs.

The claimant's weekly benefit is now \$78.00 per week. No benefits have been paid on the claim established on August 14, 2011.

REASONING AND CONCLUSIONS OF LAW:

The unemployment insurance law provides that a claimant is deemed partially unemployed if he is not employed at his usual hours and wages and earns less than his weekly benefit amount plus \$15.00 in other employment. Iowa Code § 96.19-38-b.

The claimant continues to be employed for the same hours and wages with this employer. The claimant has reported earnings since filing his weekly claim that are more than his weekly benefits amount plus \$15.00. Under Iowa law, he is not considered partially unemployed. Benefits are therefore denied as of August 14, 2011.

DECISION:

The representative's decision dated September 19, 2011, reference 01, is affirmed. The claimant is not considered partially unemployed as of August 14, 2011.

Vicki L. Seeck
Administrative Law Judge

Decision Dated and Mailed

vls/kjw