

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON L HAUSMAN
Claimant

APPEAL NO: 12A-UI-09453-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

AREA EDUCATION AGENCY 267
Employer

OC: 07/01/12
Claimant: Appellant (4)

Section 96.4-3 – Able and Available
871 IAC 23.43(4)a – Supplemental Employment

STATEMENT OF THE CASE:

The claimant appealed a department decision dated July 30, 2012, reference 01, that held he was not eligible for benefits effective July 1, 2012, as he was still employed in his on-call job as hired. A telephone hearing was held on August 29, 2012. The claimant participated. Betty Beauregard, Benefits Specialist, participated for the employer.

ISSUES:

The issue is whether the claimant is able and available for work.

The issue is whether claimant worked supplemental employment.

FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses and having considered the evidence in the record, finds: The claimant began working for the employer as a part-time, on-call substitute teacher assistant on October 15, 2011, and last performed some work on April 27, 2012. His name remains on the employer substitute list for the 2012/2013 school year. The department record shows the employer reported claimant earnings of \$236.00 for the 4th quarter of 2011, and \$127.00 for the 2nd quarter of 2012. He has not declined any work offer for the employer, and it does not have work available in the summer.

The claimant's regular employer is the North Iowa Community Action Organization (er#127896). He was recently laid-off on May 31, 2012.

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".

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 administrative law judge concludes claimant is able and available for work as a part-time on-call employee and no availability disqualification is imposed.

The administrative law judge further concludes claimant is eligible for benefits based on his supplemental employment for the employer and his lay-off from his regular employer. The employer in this matter is not liable for benefits subject to re-qualification.

Claimant worked some on-call substitute teaching for the employer that is considered supplemental employment in light of his regular work for North Iowa Community Action.

DECISION:

The department decision dated July 30, 2012, reference 01, is modified. The claimant is eligible for benefits effective July 1, 2012, as he was able and available for substitute teaching work that is considered supplemental employment. The employer is not liable for this claim.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs