

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

MATT A MCALLISTER  
2745 ST FRANCIS DR APT 1  
WATERLOO IA 50702

O'REILLY AUTOMOTIVE INC  
O'REILLY AUTO PARTS  
ATTENTION: PAYROLL  
PO BOX 1156  
SPRINGFIELD MO 65801-1156

Appeal Number: 05A-UI-08118-S2T  
OC: 07/10/05 R: 03  
Claimant: Respondent (1)

**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, 4<sup>th</sup> 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.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

O'Reilly Automotive (employer) appealed a representative's July 29, 2005 decision (reference 01) that concluded Matt McAllister (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 24, 2005. The claimant did not provide a telephone number where he could be reached and, therefore, did not participate. The employer participated by Bryan Schaufenbuel, Store Manager.

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 October 10, 2002, as a full-time parts specialist. He consistently worked at least 35 hours per week. During the week ending July 16, 2005, the employer reduced the claimant's to 27 hours of work. The claimant filed for unemployment insurance benefits with an effective date of July 10, 2005. After the week ending July 16, 2005, the employer returned the claimant schedule to at least 35 hours per week.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified for being unavailable for work. For the following reasons the administrative law judge concludes he is not.

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 full-time worker and is still working full-time for the employer. The employer reduced the claimant's hours for a one-week period. The claimant is eligible to receive unemployment insurance benefits.

DECISION:

The representative's July 29, 2005 decision (reference 01) is affirmed. The claimant is eligible to receive unemployment insurance benefits for the week ending July 16, 2005.

bas/pjs