

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TARA J BROTHERS**  
Claimant

**APPEAL NO: 14A-UI-09594-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**NORTHEAST IOWA COMMUNITY COLLEGE**  
Employer

**OC: 05/04/14**  
**Claimant: Appellant (4)**

Section 96.4-3 – Able and Available for Work  
Section 96.4-3 – Same Hours and Wages

**STATEMENT OF THE CASE:**

The claimant filed a timely appeal from the September 9, 2014, reference 02, decision that denied benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on October 21, 2014. The claimant participated in the hearing. Julie Huisman, Executive Director of Human Resources, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant is still employed with the employer for the same hours and wages as contemplated in the original contract of hire and whether she is eligible for partial unemployment benefits from her employment at Southwest Tech in Fennimore, Wisconsin.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a part-time adjunct instructor for Northeast Iowa Community College in July 2004 and continues to be employed in that capacity with no change in her hours or wages during the fall term of 2013 and the spring term of 2014.

During the 2013/2014 school year the claimant taught one to two classes as an adjunct professor during the 2013/2014 school year at Southwest Tech in Fennimore, Wisconsin, but due to low enrollment she was notified in July 2014 she would not be returning to teach there in the fall of 2014.

The claimant earned wages from Southwest Tech in the amount of \$1186.00 during the third quarter of 2013; she earned \$2523.00 during the fourth quarter of 2013; she earned \$3238.00 during the first quarter of 2014; and she earned \$2478.00 during the second quarter of 2014.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is still employed at the same hours and wages as contemplated in the original contract of hire at Northeast Iowa Community College but is eligible for partial benefits based on her previous employment with Southwest Tech.

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 Admin. Code r. 871-24.23(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 part-time adjunct instructor at Northeast Community College. There has been no separation from her part-time employment and the claimant is currently working for this employer at the same hours and wages as contemplated in the original contract of hire she signed for the 2014/2015 academic year. The claimant is disqualified from receiving benefits based on that part-time employment. However, the claimant has a qualifying separation from Southwest Tech in Wisconsin, does have a combined wage claim for her part-time work at that community college, and is eligible for partial benefits based on that separation, provided she is otherwise eligible.

**DECISION:**

The September 9, 2014, reference 02, decision is modified in favor of the appellant. The claimant is still employed at the same hours and wages as in her original contract of hire and, therefore, is not qualified for benefits based on her part-time employment with Northeast Iowa Community College. The employer's account is not subject to charge based on the claimant's part-time employment. The claimant has a combined wage claim and is eligible for partial benefits based on her separation from her part-time employment with Southwest Community College in Fennimore, Wisconsin, provided she is otherwise eligible.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

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