

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRITTANY L ZIMMERMAN**  
Claimant

**APPEAL NO: 15A-UI-05092-LDT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ARAMARK CORPORATION**  
Employer

**OC: 03/22/15**

**Claimant: Appellant (4/R)**

Section 96.19-38-b – Eligibility for Partial Unemployment Insurance Benefits

**STATEMENT OF THE CASE:**

Brittany L. Zimmerman (claimant) appealed a representative's April 21, 2015 decision (reference 04) that concluded she was not qualified to receive unemployment insurance benefits in conjunction with her employment with Aramark Corporation (claimant). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on June 5, 2015. The claimant participated in the hearing. Matthew Stoychoff appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Is the claimant employed by the employer for less than her usual hours and wages and eligible for full or partial unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer on June 18, 2014. She worked part time (about 25 to 30 hour per week) as a food service worker at the employer's Waterloo, Iowa business client's food service. Her last day working on that basis was March 26, 2015. Her position was eliminated as of that date due to staffing reductions in the client's business. The employer indicated to her that it would try to utilize her on an on-call basis. However, that was not the arrangement under which the claimant had been hired, nor had she sought or agreed to that arrangement.

Prior to June 1 there were only two days where the employer called the claimant at the last minute to ask her to fill in for another employee; however, the claimant was unable to secure a babysitter without more notice, and so did not work on those days.

The employer had arranged with the claimant prior to June 1 to work the week of June 1. The claimant did work on June 1, but did not work the rest of that week. The question has been raised as to whether a separation from employment occurred during this week.

**REASONING AND CONCLUSIONS OF LAW:**

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

Beginning on March 26, 2015, the employer was not providing the claimant with substantially the same employment as it provided during her base period. Consequently, the claimant is qualified to receive partial unemployment insurance benefits upon the filing of her claim effective March 22, 2015, provided she was otherwise eligible. The fact that she was not able to work on the two occasions with only last minute notice does not make her generally unavailable for work.

An issue arose during the hearing as to whether there was a new separation from employment during the week of June 1. This issue was not included in the notice of hearing for this case, and the case will be remanded for an investigation and preliminary determination on that issue. Rule 871 IAC 26.14(5).

**DECISION:**

The unemployment insurance decision dated April 21, 2015 (reference 04) is modified in favor of the claimant. The claimant is eligible for at least partial unemployment insurance benefits as of March 22, 2015. The matter is **REMANDED** to the Benefits Bureau for investigation and determination of the potential separation issue.

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Lynette A. F. Donner  
Administrative Law Judge

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Decision Dated and Mailed

ld/pjs