

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

KRYSTLE J ULCH  
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STATE CENTER IA 50247

IA DEPT OF VETERANS AFFAIRS-  
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C/O TALX UCM SVCS  
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Appeal Number: 05A-UI-02056-SWT  
OC: 01/09/05 R: 02  
Claimant: Appellant (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 to and Available for Work  
Section 96.19-38-b - Eligibility for Partial Unemployment Insurance Benefits

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated February 18, 2005, reference 02, that concluded she was not eligible to receive partial unemployment insurance benefits. A telephone hearing was held on March 16, 2005. The parties were properly notified about the hearing. The claimant participated in the hearing. Lana Comstock participated in the hearing on behalf of the employer.

FINDINGS OF FACT:

The claimant worked full time for the employer as a residential treatment worker from July 12, 2001, to January 14, 2005. On January 5, 2005, she made a request to change her status from full-time to part-time in order to attend school. The employer granted the request. The claimant understood that as a part-time residential treatment worker, she was not guaranteed

any particular number of hours or days of work per week. If the claimant had not made the request, she could have continued to work full time for the employer.

The claimant filed a new claim for unemployment insurance benefits with an effective date of January 9, 2005. Her weekly benefit amount was determined to be \$310.00. After January 9, 2005, the claimant had weeks in which she earned less than her weekly benefit amount plus \$15.00 but this was due to a large degree on the claimant's school and National Guard schedule.

#### REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by Iowa Code section 96 .4-3. Although the law permits a claimant who works less than her regular full-time hours and earns less than her weekly benefit amount plus \$15.00 to draw partial unemployment insurance benefits (Iowa Code section 96.19-38-b), a claimant is not allowed create that situation by changing her employment status from full-time to part-time. Furthermore, full time students can receive benefits but only if they are available to work to the same degree and the same extent as they worked during their base period. 871 IAC 24.23(5).

In this case, the claimant changed her work status from full-time to part-time and was working on that basis when she filed for unemployment insurance benefits. She is not eligible to receive unemployment insurance benefits because she was working the hours and wages as she agreed to work when she changed her status to part-time. The employer did not cut her hours; the claimant did so when she requested part-time work.

#### DECISION:

The unemployment insurance decision dated February 18, 2005, reference 02, is affirmed. The claimant is not eligible to receive unemployment insurance benefits. If circumstances change, the claimant may reopen her claim for benefits and establish her availability to work.

saw/kjf