

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

DEBRA J HERMANN
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SABULA IA 52070

CITY OF CLINTON
IOWA HOUSING AUTHORITY
C/o CHAIRMAN
215 – 6TH AVE S STE 33
CLINTON IA 52732

Appeal Number: 04A-UI-07932-DWT
OC: 03/14/04 R: 04
Claimant: Appellant (2)

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, 4th 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 are 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-3 – Ability to and Availability for Work
Section 96.19-38-b – Partial Benefits

STATEMENT OF THE CASE:

Debra J. Hermann (claimant) appealed a representative's July 20, 2004 decision (reference 02) that concluded she was not qualified to receive unemployment insurance benefits because she was still working for City of Clinton Iowa Housing Authority (employer) at the same hours and wages she was hired to work and could not be considered unemployed. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 12, 2004. The claimant participated in the hearing. Mary Ries, the director of childcare, 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:

As of July 2, 2004, is the claimant able to and available to receive partial unemployment insurance benefits?

FINDINGS OF FACT:

The claimant established a new benefit year during the week of March 14, 2004. Her maximum weekly benefit amount is \$199.00. The only base period employer on this claim is Tyco Electronics. Since the claimant had a previous benefit year, she was held not eligible to receive benefits until she had earned a minimum of \$250.00.

The claimant began working for the employer on June 1, 2004. The employer hired her to work as a part-time childcare employee. After the claimant earned wages of \$250.00 from the employer, she reopened her claim for unemployment insurance benefits during the week of June 26, 2004.

On June 26 and as of the date of the hearing, August 12, 2004, the claimant still works part-time for the employer.

REASONING AND CONCLUSIONS OF LAW:

An individual is partially unemployed in any week a claimant works less than the regular full-time week and earns less than the individual weekly benefit amount plus \$15.00. Iowa Code §96.19-38-b.

A regulation provides that when 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 a reduced workweek different from the contract, the claimant is not considered partially unemployed. 871 IAC 24.23(26). However, a claimant who has been separated from a regular employer but who remains employed with a part-time, base-period employer, will be eligible to receive partial unemployment insurance benefits as long as the claimant continues to work for the part-time employer. As long as the employment relationship remains the same, the employer's account will be relieved from charge during the first benefit year. 871 IAC 23.43(4).

871 IAC 24.23(26) applies when a claimant only works one part-time job and files a claim for benefits even though the employment relationship has not changed. Since the claimant started working for the employer on June 1, 2004, this regulation does not disqualify the claimant from receiving benefits based on a claim she filed during the week of March 14, 2004. To hold the claimant ineligible to receive partial unemployment after she established a claim would discourage anyone from accepting part-time employment. This is contrary to the intent of the law. As of June 27, 2004, the claimant is eligible to receive partial unemployment insurance benefits for any week in which she earns less than \$214.00 gross wages.

DECISION:

The representative's July 20, 2004 (reference 02) is reversed. Although the claimant started working for the employer after she established her benefit year, March 14, 2004, she established she is eligible to receive partial benefits as of June 27, 2004, provided she meets all other eligibility requirements.

dlw/b