

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUZANNE M SCHRADER
Claimant

APPEAL NO. 13A-UI-04300-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FOCUS SERVICES LLC
Employer

**OC: 06/17/12
Claimant: Respondent (4)**

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 employer appealed an unemployment insurance decision dated April 5, 2013, reference 03, that concluded the claimant was to receive partial unemployment insurance benefits and the employer's account was chargeable for benefits paid to the claimant since her hours and/or wages had been reduced. A telephone hearing was held on May 14, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Cortnee Sowders participated in the hearing on behalf of the employer.

ISSUES:

Is the claimant eligible for partial unemployment insurance benefits?
Was the claimant able to and available for work?

FINDINGS OF FACT:

The claimant originally filed for unemployment insurance benefits in June 2011. She exhausted her regular unemployment benefits and emergency unemployment insurance benefits and began receiving training extension benefits in September 2012 to finish her department approved training which she started in January 2012. Benefits paid for emergency unemployment insurance benefits and training extension benefits are not charged to any employer.

The claimant accepted a part-time job working as a sales representative for the employer at the end of August 2012. She has continued working part-time for the employer working the same hours and for the same wages agreed to when she was hired.

While working for the employer, the claimant's wages have been less than her earning allowance for receiving benefits.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant was eligible for partial unemployment insurance benefits. The claimant filed a claim requesting partial unemployment insurance benefits for the weeks in which her earnings were less than the weekly benefit amount.

Iowa Code § 96.3-3 provides:

3. Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.19, subsection 38, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

She was entitled to partial unemployment insurance benefits since her earnings were less than her weekly benefit amount plus \$15.00.

The unemployment insurance law provides that an individual be able to and available for work. Iowa Code § 96.4-3. The claimant, however, was in department approved training while she worked for the employer and under Iowa Code § 96.4-6-a, cannot be denied benefits for not being available for work, for not actively searching for work, or for refusing suitable work. The idea is that the department has approved a claimant to focus on completing the approved training program to improve the claimant's employability. The claimant would not have had to even look for work, so taking a part-time job would not disqualify her.

The final issue is whether the employer's account is subject to charge for benefits paid to the claimant. The employer's account is not subject to charge for benefits paid to the claimant since this is supplemental employment and the claimant is working the same hours and wage agreed to at time of hire. In addition, the employer is not chargeable for emergency unemployment compensation or benefits paid while a claimant is in approved training, which has been the case since January 2012 through today.

DECISION:

The unemployment insurance decision dated April 5, 2013, reference 03, is modified in favor of the employer. The claimant is qualified to receive unemployment insurance benefits, if she is otherwise eligible. The employer's account will not be subject to charge for any benefits paid to the claimant.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs

