

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANIELLE K SCHAFFERT
Claimant

APPEAL NO: 13A-UI-12466-DT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DAVENPORT COMM SCHOOL DIST
Employer

OC: 09/15/13

Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

Danielle K. Schaffert (claimant) appealed a representative's October 17, 2013 decision (reference 01) that concluded she was qualified to receive unemployment insurance benefits in conjunction with her employment with Davenport Community School District (employer), but only as of September 15, 2013. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on November 20, 2013. This appeal was consolidated for hearing with one related appeal, 13A-UI-12128-DT, regarding the claimant's request to backdate her claim. The claimant participated in the hearing. A review of the Appeals Section's conference call system indicates that the employer failed to respond to the hearing notice and provide a telephone number at which a witness or representative could be reached for the hearing and did not participate in the hearing. 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:

Was 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 in December 2007. She works full time (32 hours) as a para-educator in the employer's early childhood program. Prior to June 28, 2013 she worked on a calendar year basis; her contract provided for working 230 days per year. She had always worked through the period between the end of the spring academic term and the start of the fall academic term, during the traditional academic "summer break." In about April 2013 the employer announced that not all para-educators would be kept on as calendar year employees, but that some would be reduced to academic year employees, working 187 days per year. On May 22 the claimant learned that she would be one of the para-educators who would be reduced to 187 days. As a result, the claimant's last day of work before being off between the academic terms was June 28, 2013. She then returned to employment on August 12, 2013.

The employer had informed the claimant's union that the para-educators who were no longer going to be working over the "summer break" that they would not be entitled to unemployment insurance benefits for that period, and the union representative had conveyed that information to the claimant. Additionally, a similarly affected coworker of the claimant had spoken to an Agency representative in about May or June and had also been told that there would not be eligibility. Therefore the claimant did not seek to establish a claim for unemployment insurance benefits after her last day of work on June 28. When the claimant returned to working on August 12, she learned that some similarly situated coworkers had gone ahead and filed for unemployment insurance benefits, and had been awarded benefits. She then contacted the local Agency office herself, and was herself told that she would not be eligible. After further consultation with other coworkers, the claimant then did establish a claim for benefits effective September 15, 2013. However, by September 15 the claimant was back to working on her regular hours with the employer, and so she has not sought benefits for any weeks after September 15.

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 in other employment. Iowa Code § 96.19-38-b.

Beginning on or about June 28, 2013 through August 12, 2013, the employer was not providing the claimant with substantially the same employment as it provided during her base period. Consequently, the claimant would be qualified to receive unemployment insurance benefits during that period if her request to have her claim backdated is granted, provided she was otherwise eligible. As of September 15, 2013 the claimant is again employed at her same hours and wages and would not be eligible for further benefits at that point, until or unless there is some further change in her status.

DECISION:

The representative's October 17, 2013 decision (reference 01) is modified in favor of the claimant. The claimant would be eligible to receive unemployment insurance benefits for the period of June 30 through August 10, 2013, if she is otherwise eligible. She is not eligible for benefits after September 15, 2013, but she does not seek benefits for that period.

Lynette A. F. Donner
Administrative Law Judge

Decision Dated and Mailed

ld/css