

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN KIRK
Claimant

APPEAL NO: 15A-UI-03314-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

GOLD KEY AUTO CREDIT INC
Employer

OC: 02/01/15
Claimant: Respondent (4)

871 IAC 23.43 (4) a – Partial Unemployment
Section 96.4-3 – Able and Available for Work

STATEMENT OF THE CASE:

The employer/appellant filed a timely appeal from the March 3, 2015, reference 02, decision that allowed benefits to the claimant. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on April 28, 2015. The claimant participated in the hearing. April Keeney, Office Manager, participated in the hearing on behalf of the employer.

ISSUE:

The issue is whether the claimant is eligible for partial unemployment benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a part-time car cleaner/collection employee for Gold Key Auto Credit on April 13, 2010, and continues to be employed in that capacity with no change in his hours or wages. The claimant was employed as a part-time dishwasher/prep cook for Spring Brook from July 2014 to November 20, 2014. He is currently on a seasonal layoff from Spring Brook and will return to work there in May 2015.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed.

Iowa Code § 96.4-3 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially

unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph 1, or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-23.43(4)a provides in part:

(4) Supplemental employment.

a. An individual, who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer, continues to be eligible for benefits as long as the individual is receiving the same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges....

The claimant was hired as a part-time car cleaner/collection employee. There has been no separation from his part-time employment with Gold Key Auto Credit and the claimant is currently working for this employer at the same hours and wages as contemplated in the original contract of hire. The claimant is disqualified from receiving benefits based on his part-time employment with this employer. However, he has a qualifying separation from his position with Spring Brook as he is in the midst of a seasonal layoff and is eligible for benefits based on that separation, provided he is otherwise eligible.

DECISION:

The March 3, 2015, reference 02, decision is modified in favor of the employer/appellant. The claimant is partially unemployed within the meaning of the law due to his seasonal layoff from Spring Brook. Benefits are allowed, provided the claimant is otherwise eligible. The account of this part-time employer shall not be charged.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs