

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**LINDA J ALEXANDER-MAITLAND**  
Claimant

**APPEAL 14A-UI-11270-H2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HAWKEYE COMMUNITY COLLEGE**  
Employer

**OC: 09/07/14**  
**Claimant: Appellant (1)**

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Iowa Code § 96.4(3) – Able and Available  
871 IAC 24.23(26) – Same Hours and Wages

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the October 21, 2014 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 19, 2014. Claimant participated. Employer participated through Janine Knapp, Associate Director of Human Resources.

**ISSUE:**

Is she still employed at the same hours and wages?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant is an adjunct instructor teaching two classes of college preparatory English. She was hired back in August 2010 with no guarantee of any particular number of classes per academic year or term. She has never worked during the summer term since her hire. She was told that she would be given classes to teach depending upon the number of students enrolled.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant is not able to work and available for work.

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. 871-24.23(26) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(26) Where 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 on a reduced workweek basis different from the contract for hire, such claimant cannot be considered partially unemployed.

The claimant has never worked summers. She had no promise or guarantee of any particular amount of hours or wages. She was only told that she would be given what classes were available. Under these circumstances she is still employed at the same hours and wages and benefits must be denied.

**DECISION:**

The October 21, 2014 (reference 02) decision is affirmed. The claimant is not able to work and available for work effective September 7, 2014. Benefits are denied.

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Teresa K. Hillary  
Administrative Law Judge

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Decision Dated and Mailed

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