

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BEAU VAN SICKLE**  
Claimant

**APPEAL NO: 12A-UI-03596-ET**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**A TEAM APPAREL**  
Employer

**OC: 02-12-12**  
**Claimant: Respondent (1)**

Section 96.4-3 – Able and Available for Work  
Section 96.4-3 – Same Hours and Wages

**STATEMENT OF THE CASE:**

The employer filed a timely appeal from the March 28, 2012, reference 01, decision that allowed partial 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 24, 2012. The claimant participated in the hearing. Bruce Brukland, sales manager, participated in the hearing on behalf of the employer.

**ISSUE:**

The issue is whether the claimant is still employed with the employer for the same hours and wages as contemplated in the original contract of hire.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a full-time artist and production specialist for A Team Apparel from September 7, 2010, and continues to be employed in that capacity. The employer asked all employees to take one or two days off per week between the week ending February 18, 2012, and the week ending March 3, 2012, because, as a youth sports apparel manufacturer, that is the slow time for the employer and it did not want to lay any employees off. The claimant complied with the employer's request and reported wages for those three weeks while collecting partial unemployment during that time.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that the claimant was not employed at the same hours and wages as contemplated in the original contract of hire for the three weeks ending March 3, 2012.

Iowa Code section 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".

The employer asked employees to take one or two days off per week for three weeks during its slow season so it would not have to lay anyone off. While the employer's consideration is admirable, the claimant was not working the same hours or earning the same wages as agreed upon in his original contract of hire and, consequently, is eligible for partial unemployment benefits for the three weeks ending March 3, 2012.

**DECISION:**

The March 28, 2012, reference 01, decision is affirmed. The claimant was not working the same hours and wages as in his original contract of hire and therefore is eligible for partial unemployment insurance benefits for the three weeks ending March 3, 2012.

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Julie Elder  
Administrative Law Judge

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Decision Dated and Mailed

je/kjw