

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARIA ROMERO
Claimant

APPEAL NO: 09A-UI-16283-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC
Employer

OC: 09/13/09
Claimant: Appellant (1)

871 IAC 24.23(26) – Not Partially Unemployed When Working Same Hours as Hired

STATEMENT OF THE CASE:

The claimant appealed a representative's October 28, 2009 decision (reference 01) that concluded she was not eligible to receive benefits because she continued to work for the employer in the same manner that she had been hired to work. A telephone hearing was held on December 8, 2009. The claimant participated in the hearing. Sarah Fiedler, the claims administrator, appeared on the employer's behalf. 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:

Is the claimant working the same hours and wages that she has was hired to work?

FINDINGS OF FACT:

The claimant applied to work for the employer in March 2007. The employer assigned the claimant to a long-term job assignment at Heinz. The claimant's job is an on-call job. She does not have any set hours to work and there is no guarantee about the number of hours she may work a week. Sometimes the claimant is scheduled and works 40 hours a week. Other weeks she is not scheduled but is called to work when needed. This has been the employment arrangement since the claimant began at this job assignment on October 31, 2007. The claimant continues to work at this job assignment as she has always worked.

REASONING AND CONCLUSIONS OF LAW:

When 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 a reduced workweek different from the contract for hire, the claimant cannot be considered partially unemployed. 871 IAC 24.23(26).

The facts establish the claimant works for the employer in the same manner that she was hired to work – on-call with no guarantee of hours she may work a week. As a result, the claimant

cannot be considered partially unemployed. The claimant is not eligible to receive benefits as of September 13, 2009.

(The administrative record indicates the claimant received benefits in a previous benefit year. However, then the claimant worked for other employers, as well as this employer. In this benefit year, the claimant's claim is based on her continuing employment with this employer.)

DECISION:

The representative's October 28, 2009 decision (reference 01) is affirmed. The claimant is not eligible to receive partial unemployment insurance benefits because she continues to work for the employer in the same manner at which she was hired. Therefore, the claimant is not considered partially unemployed and is not eligible to receive benefits as of September 13, 2009.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs