

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GERALD W LOY
Claimant

APPEAL NO. 08A-UI-04399-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

COMMUNITY CARE INC
Employer

**OC: 04/29/08 R: 03
Claimant: Appellant (1)**

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Community Care (employer) appealed a representative's May 1, 2008 decision (reference 09) that concluded Gerald Loy (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for May 21, 2008. The claimant participated personally. The employer participated by Carol Wells, Human Resources Director, and Vicki Schuman, Jones County Supervisor for Community Care.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable for work.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on May 9, 2007, as a part-time direct care professional. He consistently worked 32 or more hours per week. At the end of March 2008, the claimant requested a reduction in his hours so that he could search for full-time employment. The employer honored the claimant's request. The claimant continues to work 24 hours per week.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant is not able and available for work.

871 IAC 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 was hired as a part-time worker and is still working part-time for the employer. He asked that those part-time hours be changed so that he could search for work and the employer complied. The change in hours was initiated by the claimant. He was still employed in a part-time position as was agreed. The claimant is disqualified from receiving unemployment insurance benefits because he was not available for work.

DECISION:

The representative's May 1, 2008 decision (reference 09) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because he was not available for work.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css