

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NATHAN YOCK
Claimant

APPEAL NO: 13A-UI-13535-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAREWAY STORES INC
Employer

OC: 11/03/13
Claimant: Appellant (1)

Iowa Code § 96.4-3 - Able and Available for Work

STATEMENT OF THE CASE:

Nathan Yock (claimant) appealed an unemployment insurance decision dated December 5, 2013, reference 02, which held that he was not eligible for unemployment insurance benefits because he was working at the same hours and wages with Fareway Stores (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 6, 2014. The claimant participated in the hearing. The employer participated through Ms. Maggie Worrall and Mr. Dana Halder.

ISSUE:

The issue is whether the claimant is able and available and/or whether he is working the same hours and wages as in his original contract of hire with this employer.

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 as a part-time market clerk on July 18, 2011 and continues to be employed in that same capacity. In December 2013, he voluntarily requested his part-time hours be reduced due to lack of child care. Additional hours are available.

REASONING AND CONCLUSIONS OF LAW:

The issue to be determined is whether the claimant is able and available to work. 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. 871 IAC 24.23(26). Contract for hire merely means the established conditions of the employment. See *Wiese v. Iowa Dept. of Job Service*, 389 N.W.2d 676, 679 (Iowa 1986).

The claimant was hired as a part-time market clerk and he is continuing to work in that same capacity. However, he has voluntarily reduced his own hours for personal reasons. The claimant cannot be considered partially unemployed and benefits are denied.

DECISION:

The unemployment insurance decision dated December 5, 2013, reference 02, is affirmed. The claimant continues to be employed part time in the same hours and wages as contemplated in the original agreement of hire. Partial unemployment insurance benefits are denied as of November 3, 2013.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css