

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**CRAIG R FREESE**  
Claimant

**APPEAL NO. 14A-UI-08519-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CASEY'S MARKETING COMPANY**  
Employer

**OC: 07/13/14**  
**Claimant: Appellant (2)**

Section 96.4-3 – Able to and Available for Work  
Section 96.19-38-b – Eligibility for Partial Unemployment Insurance Benefits

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated August 12, 2014, reference 02, that concluded he was ineligible to receive partial unemployment insurance benefits. A telephone hearing was held on September 8, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer and the employer sent in a letter stating that it did not intend to participate in the hearing.

**ISSUES:**

Is the claimant eligible for partial unemployment insurance benefits?

Was the claimant able to and available for work?

**FINDINGS OF FACT:**

The claimant worked 20 to 25 hours per week for M & H Enterprises doing cleaning work until May 2014, when he quit to take a job as a cook with the employer. He continues to work for the employer.

When the claimant was hired, the manager told him he would be able to work 20 to 30 hours per week at a rate of pay of \$9 per hour. But when the claimant began working for the employer, he was only scheduled about 9 to 12 hours per week. The claimant has requested more hours, but his hours have not increased. The claimant has not restricted the hours he is willing to work.

As a result of working for so few hours, the claimant filed a new claim for unemployment insurance benefits with an effective date of July 13, 2014. His weekly benefit amount was determined to be \$150.00.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. M & H Enterprises was his base-period employer.

The claimant has had weeks since filing the claim for unemployment insurance benefits in which he worked less than the regular hours he had worked for his base-period employer M & H Enterprises and had earnings less than his earnings allowance of \$165.

### **REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant was eligible for partial unemployment insurance benefits effective July 13, 2014. The claimant filed a claim requesting partial unemployment insurance benefits for the weeks in which his earnings were less than the weekly benefit amount.

Iowa Code § 96.3-3 provides:

3. Partial unemployment. An individual who is partially unemployed in any week as defined in section 96.19, subsection 38, paragraph "b", and who meets the conditions of eligibility for benefits shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. The benefits shall be rounded to the lower multiple of one dollar.

Iowa Code § 96.19-38-b provides in part:

b. An individual shall be deemed partially unemployed in any week in which, while employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

The preponderance of the evidence establishes the claimant's regular workweek at the point he filed his new claim (based on his employment at M & H Enterprises) was 20 to 25 hours per week. He was working less than that regular workweek effective July 13, 2014, and he was entitled to partial unemployment insurance benefits since his earnings were less than his weekly benefit amount plus \$15.00.

The unemployment insurance law provides that an individual be able to and available for work. Iowa Code § 96.4-3. The claimant was able to and available to work and did not restrict the number of hours he was willing to work.

The employer's account is not presently chargeable for benefits paid to the claimant since it is not a base period employer on the claim. If the employer becomes a base period employer in a future benefit year, charges will be determined at that time based on facts at that time.

**DECISION:**

The unemployment insurance decision dated August 12, 2014, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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