

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**YOLANDA S SALMERON DE ALVAREZ**  
Claimant

**APPEAL NO: 14A-UI-07000-ST**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALANIZ LLC**  
Employer

**OC: 06/08/14**  
**Claimant: Appellant (4)**

Section 96.4-3 – Able and Available  
Section 96.19-38 – Partial Unemployment

**STATEMENT OF THE CASE:**

The claimant appealed a department decision dated July 2, 2014, reference 01, that held she was not eligible for benefits as of June 8, 2014, because she did not meet the availability requirements of the law. A telephone hearing was held on July 30, 2014. The claimant did not participate. Mike Owens, HR representative, participated for the employer.

**ISSUES:**

The issue is whether the claimant is able and available for work.

The issue is whether the claimant is partially unemployed.

**FINDINGS OF FACT:**

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The claimant began working for her employer on November 2, 2004, and she was a full-time machine operator at \$10.66 an hour when she filed her June 8, 2014 benefit claim.

The employer had a one-day June 9 plant shut-down. Claimant worked the remainder of the week for 32 hours. She resumed her regular 40-hour work week on June 16, and continues to work full-time for the employer.

Claimant failed to respond to the hearing notice. There is no UI Appeals C2T record claimant called in with a phone number to be contacted for the hearing.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 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".

Iowa Code § 96.19-38 provides:

"Total and partial unemployment".

a. An individual shall be deemed "totally unemployed" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

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.

An individual shall be deemed partially unemployed in any week in which the individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

The administrative law judge concludes claimant does meet the availability requirements of the law for partial unemployment benefits effective June 8, 2014 for the week ending June 14, 2014.

Claimant was a full-time employee working 40 hours a week when she experienced a one-day plant shut-down for the week ending June 14 that meant she got only 32 hours of work. There is no eligibility issue as to claimant being able and available for work. She is entitled to a partial unemployment benefits for this week.

The administrative law judge further concludes claimant is not entitled to benefits effective June 15, 2014 as she resumed work full time and does not meet the availability requirements of the law.

**DECISION:**

The department decision dated July 2, 2014, reference 01, is modified. Claimant was able and available for work the week ending June 14, 2014, and she is eligible for benefits due to working less than full-time. The claimant is not eligible for benefits effective June 15, 2014, as she does not meet the availability requirements of the law.

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Randy L. Stephenson  
Administrative Law Judge

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Decision Dated and Mailed

rls/pjs