

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**COLLEEN TAUL**  
Claimant

**APPEAL NO: 14A-UI-12798-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BETHANY LUTHERAN HOME INC**  
Employer

**OC: 11/09/14**  
**Claimant: Appellant (5/R)**

Iowa Code § 96.4(3) – Availability for Work

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's December 9, 2014 (reference 01) determination that held her ineligible to receive benefits because she was not considered partially unemployed. The claimant participated at the January 8 hearing. Cindy Schechinger, the human resource coordinator, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes that as of November 9, 2014 the claimant is not eligible to receive benefits.

**ISSUE:**

Is the claimant eligible to receive partial benefits as of November 9, 2014?

**FINDINGS OF FACT:**

The claimant started working for the employer in July 2013. The employer hired the claimant to work as a full-time staffing accountant. She received a salary of \$42,000 a year, or \$21.63 an hour.

The claimant decided to move to California. She gave the employer her written resignation indicating her last day of work at the office would be August 22, 2014. The employer accepted the claimant's resignation but agreed she could work remotely from California until the employer hired someone to replace her staffing accountant position.

In late October 2014 the claimant decided to move back to Iowa. She contacted the employer about continuing to work as a staff accountant. The employer had just hired a new employee to replace the claimant. As a result of just hiring a new employee, the employer did not have a job as a staffing accountant available.

The employer offered the claimant the job of training the new employee and then working as a part-time van driver. The claimant completed training the new employee on November 7, 2014. The claimant accepted the employer's offer of work as a van driver. The part time van driver position pays \$9.75 an hour.

When the claimant accepted work a part-time van driver, she did not have a lapse in her employment. She continued working for the employer as a part-time van driver. After the claimant accepted the job as a part-time van driver, she no longer worked full time. The claimant established a claim for benefits during the week of November 9, 2014.

**REASONING AND CONCLUSIONS OF LAW:**

The facts establish the claimant earned her wages in her base period from full-time employment. Her hours and wages were reduced after she accepted a part-time van driver position. The claimant is not working the same number of hours or earning the same hourly pay she had been earning when she worked as a full-time staffing accountant.

The regulation the determination relied upon does not apply to facts in this case. 871 IAC 24.23(26) applies to a claimant who has part time employment in her base period and establishes a claim based on this part-time, base-period employment. In this case the claimant was working full time. The claimant ultimately created her unemployed situation when she resigned to relocate to California. The employer did not allow the claimant to rescind her resignation, but offered her a part-time job on November 7 which she accepted. While the claimant has the right to quit a full-time job and then accept a part-time job, her actions and decisions created her partial unemployed status. A claimant is not eligible to receive benefits when her actions result in her unemployed status. Iowa Code § 96.4(3).

This matter will be remanded to the Benefits Bureau to determine if the claimant quit her full-time employment for reasons that qualify her to receive benefits.

**DECISION:**

The representative's December 9, 2014 (reference 01) determination is modified, but the modification has no legal consequence. The claimant's decision to quit in order to relocate, and then move back after the employer had hired her replacement, meant the employer could not allow the claimant to rescind her resignation from a full-time job. The claimant's decisions resulted her in being partially unemployed. As a result, she is not eligible to receive benefits as of November 9, 2014. The issue of whether she quit her full time for reasons that qualify her to receive benefits is **remanded** to the Benefits Bureau to determine.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/can