

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**KERRI E MILLER**  
Claimant

**APPEAL NO: 14A-UI-11523-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HY-VEE INC**  
Employer

**OC: 07/27/14**  
**Claimant: Appellant (2)**

Iowa Code § 96.4(3) – Able to and Available for Work  
871 IAC 24.23(26) – Same Hours and Wages  
Iowa Code § 96.19(38)b – Partial Benefits

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's October 28, 2014 (reference 02) determination that denied her benefits as of September 28, 2014 because she was still working the same hours and wages that she had been hired to work. The claimant participated at the November 26 hearing with Kurt Miller, her witness. Julia Day represented the employer. Tim Mansfield, the store director, testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes as of September 28, 2014 the claimant remains eligible to receive benefits.

**ISSUES:**

Is the claimant working the same hours and wages that the employer hired her to work?

Is the claimant eligible to receive partial benefits when she reports wages during a claim week?

**FINDINGS OF FACT:**

The claimant started working for the employer in July 2011. The employer hired the claimant to work 30 hours a week and she often worked more than 30 hours a week until late July 2014. In late July 2014 the employer informed the claimant she would be scheduled to work ten hours a week. The claimant's reduction in hours was the result of a business decision; it had nothing to do with the claimant's work performance.

The claimant established a claim for benefits during the week of July 27, 2014. She has filed for and received benefits since July 27, 2014. For the week ending October 4 she reported earning gross wages of \$150. For the week ending October 11 she reported she earned gross wages of \$120. The employer paid the claimant \$10 an hour.

The claimant accepted another part-time job and began that job in late October.

**REASONING AND CONCLUSIONS OF LAW:**

When a claimant is still employed in a part-time job at the same hours and wages as hired and is **NOT** working a reduced workweek, a claimant is not considered partially unemployed. 871 IAC 24.23(26).

When the claimant established her claim for benefits, she still worked part time for the employer. The employer admitted that instead of working 30 or more hours a week, the employer reduced her hours to ten hours a week and she would continue to work a reduced workweek. As a result of working a reduced workweek, the claimant is partially unemployed and is eligible to receive benefits. Even though she worked more hours during the weeks ending October 4 and 11; she was not scheduled and did not work the number of hours she had been working before late July 2014. As of September 28, 2014 the claimant's remains eligible to receive partial unemployment benefits. Iowa Code § 96.19(38)b.

**DECISION:**

The representative's October 28, 2014 (reference 02) determination is reversed. Even as of September 28, 2014 the claimant worked less than 30 hours a week for the employer. She worked a reduced workweek and remains eligible to receive partial benefits as of September 28, 2014.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/can