

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**SYLVIA M CARTER**  
Claimant

**APPEAL NO. 17A-UI-02290-S1-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**FAREWAY STORES INC**  
Employer

**OC: 02/12/17**  
**Claimant: Respondent (2)**

Iowa Code § 96.4(3) – Able and Available  
871 IAC 24.23(26) – Part-Time Worker – Able and Available

**STATEMENT OF THE CASE:**

Fareway Stores (employer) appealed a representative's February 24, 2017, decision (reference 01) that concluded Sylvia Carter (claimant) was eligible to receive unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for April 20, 2017. The claimant provided a telephone number for the hearing but was not available at that number. The administrative law judge left a message for the claimant. The claimant did not respond to the message and, therefore, did not participate in the hearing. The employer participated by Theresa McLaughlin, Director of Human Resources, and Paul Schemmel, Grocery Manager.

**ISSUE:**

The issue is whether the claimant is eligible to receive unemployment insurance benefits.

**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 on February 22, 2016, as a part-time grocery clerk. The employer had hours available Monday through Saturday, 5:00 a.m. to 9 p.m. At the time she was hired she indicated her hours of availability as Monday through Wednesday and Friday through Saturday, 8:00 a.m. to 6:00 p.m. On February 5, 2016, the claimant acknowledged that as a part-time worker she would work five to twenty-eight hours per week. The claimant filed for unemployment insurance benefits with an effective date of February 12, 2017. Over the last twenty weeks the claimant worked an average of 22.6 hours per week.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Admin. Code r. 871-24.23(26) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(26) 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.

The claimant was hired as a part-time worker and is still working part-time for the employer at the same hours and wages she was hired to work. There has been no change to her hours. The claimant is not partially unemployed. She is disqualified from receiving unemployment insurance benefits.

**DECISION:**

The representative's February 24, 2017, decision (reference 01) is reversed. The claimant is disqualified from receiving unemployment insurance benefits.

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Beth A. Scheetz  
Administrative Law Judge

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Decision Dated and Mailed

bas/rvs