

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MEGAN VAN WYCHEN

Claimant

APPEAL NO: 14A-UI-02010-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

PLEASANT VALLEY COMM SCHOOL DIST

Employer

OC: 01/19/14

Claimant: Appellant (2)

Iowa Code § 96.4(3) – Ability to and Availability for Work
871 IAC 24.23(26) – Partially Unemployed

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's February 14, 2014 determination (reference 02) that held her ineligible to receive benefits as of January 19, 2014, because she unable to work due to an illness. The claimant participated at the March 31 hearing. James Spelhaug, the superintendent, and Andrea Mahler, the food service director, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is eligible to receive benefits as of January 19, 2014.

ISSUES:

As of January 19, 2014, is the claimant able to and available for work?

Is the claimant partially unemployed when an employer reduced her hours from 5.75 hours per day to 2 hours per day?

FINDINGS OF FACT:

The claimant started working for the employer in August 2011. The employer hired the claimant to work part time, 28 hours a week, as a kitchen helper. This job required the clamant to lift up to 50 pounds.

The claimant was unable to work when school started in August 2013. She returned to work in early October 2013 with work restrictions. The claimant was restricted to lifting no more than ten pounds. The employer accommodated the claimant's work restrictions and continued to work an average of 5.75 hours a day. With her work restrictions, the claimant operated the cash register during lunch, wrapped sandwiches and fruit cups, helped make sandwiches and handed out food to students.

After the holiday break the employer reduced the claimant's hours to two hours a day. The claimant only worked at the cash register during lunch. Spelhaug decided the employer could not continue to accommodate the claimant's work restrictions. The employer had been trying to

find work for the claimant to do, when other employees could easily do the work the claimant had been doing without any assistance

After the employer reduced her hours to two hours a day, the claimant established a claim for benefits during the week of January 19, 2014. The claimant has filed weekly claims.

REASONING AND CONCLUSIONS OF LAW:

When a claimant is still employed in a part-time job at the same hours and wages that she was hired to work and is not working a reduced workweek, the claimant cannot be considered partially unemployed and eligible to receive benefits. 871 IAC 24.23(26). In this case, the employer had accommodated the claimant's work restrictions since early October. In January 2014 the employer decided the employer would not make accommodations for the claimant and reduced the claimant's workweek to ten hours a week. As a result of the employer's decision, the claimant is partially unemployed.

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4(3). The claimant demonstrated she is able to and available for work since she worked 5.75 hours a day since early October. Also, the law does not require a claimant to be able to do her customary job; instead she must establish that she is capable of performing meaningful work.

Even though the claimant has work restrictions, she demonstrated since October that she is able to and available for work. Therefore, as of January 19, 2014, the claimant is qualified to receive benefits.

DECISION:

The representative's February 14, 2014 determination (reference 02) is reversed. The claimant is partially unemployed after the employer reduced her workweek. The claimant demonstrated she has been able to and available for work since early October 2013. The claimant is eligible to receive benefits as of January 19, 2014.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css