

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

PAMELA K HARVEY
Claimant

APPEAL NO. 12A-UI-11823-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

RM ENTERPRISES INC
Employer

OC: 10/02/11
Claimant: Appellant (1R)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Pamela Harvey (claimant) appealed a representative's September 20, 2012 decision (reference 07) that concluded she was not eligible to receive unemployment insurance benefits as of August 26, 2012, because she is still employed with RM Enterprises (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was scheduled for October 18, 2012. The claimant participated personally. The employer participated by Rhonda Coborn, President.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

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 March 2, 2009, as a temporary worker. The claimant also works on call for the Mason City School System. For the benefit week ending September 1, 2012, the claimant worked 30 hours on assignment for the employer and 20 hours at the Mason City School System. For the benefit week ending September 8, 2012, the claimant worked 24 hours on assignment for the employer and 40 hours at the Mason City School System. For the benefit week ending September 15, 2012, the claimant worked 10 hours on assignment for the employer and 20 hours at the Mason City School System. For the benefit week ending September 22, 2012, the claimant worked 27.5 hours on assignment for the employer and 4 hours at the Mason City School System. For the benefit week ending September 29, 2012, the claimant worked 37.5 hours on assignment for the employer and 3.5 hours at the Mason City School System. For the benefit week ending October 6, 2012, the claimant worked 32 hours on assignment for the employer and 7.5 hours at the Mason City School System. For the benefit week ending October 13, 2012, the claimant worked 8 hours on assignment for the employer and 12 hours at the Mason City School System.

Each week after August 26, 2012, the claimant earned more from the two employers than her weekly benefit amount of \$234.00. The claimant did not report the wages from Mason City School System because she was unaware they had to be reported.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant is not eligible to receive unemployment insurance benefits.

871 IAC 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.

871 IAC 24.23(23) provides:

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

(23) The claimant's availability for other work is unduly limited because such claimant is working to such a degree that removes the claimant from the labor market.

The claimant was hired as a temporary worker and is still working part time for the employer in that capacity. She is still employed in a part-time position as was agreed to at the time she was hired. In addition the claimant is working to such a capacity as to remove her from the work force. The claimant is disqualified from receiving unemployment insurance benefits because she was not available for work.

The issue of wages from the Mason City School System is remanded for determination.

DECISION:

The representative's September 20, 2012 decision (reference 07) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because she was not available for work. The issue of wages from the Mason City School System is remanded for determination.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css