

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DEBORAH L SANKEY
Claimant

APPEAL NO. 12A-UI-08777-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 06/10/12
Claimant: Appellant (1/R)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Deborah Sankey (claimant) appealed a representative's July 13, 2012 decision (reference 01) that concluded she was not eligible to receive unemployment insurance benefits because she is still employed in her job for the same hours and wages as she was hired by Hy-Vee (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 15, 2012. The claimant participated personally. The employer was represented by Sabrina Bentler, hearings representative, and participated by Roger Townsend, manager of store operations.

ISSUE:

The issue is whether the claimant is disqualified for being unavailable for work. .

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant was hired on November 15, 2011, as a part-time checker/stocker. The claimant filed for unemployment insurance benefits on June 10, 2012. There was no change in the claimant's employment with the employer.

REASONING AND CONCLUSIONS OF LAW:

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.

The claimant was hired as a part-time worker and is still working part-time for the employer. She was still employed in a part-time position as was agreed to at the time she was hired. The claimant is not eligible to receive unemployment insurance benefits based on her employment with this employer.

The claimant may have other wage credits from Wisconsin. The issue of whether the claimant is eligible to receive unemployment insurance benefits based on her Wisconsin wage credits is remanded for determination.

DECISION:

The representative's July 13, 2012 decision (reference 01) is affirmed. The claimant is not eligible to receive unemployment insurance benefits based on her employment with this employer. The issue of whether the claimant is eligible to receive unemployment insurance benefits based on her Wisconsin wage credits is remanded for determination.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/kjw