

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICHARD A SABERS
Claimant

APPEAL NO: 10A-UI-13819-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

A Y MC DONALD MFG CO
Employer

OC: 08/22/10
Claimant: Respondent (1)

Section 96.4-3 – Availability for Work
871 IAC 24.24 – Still Employed at Same Hours

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's October 4, 2010 determination (reference 01) that held the claimant eligible to receive partial benefits for weeks he worked reduced hours and that the employer's account would not be relieved from these charges. The claimant participated in the telephone hearing. Sara Lynch and Jeff Gaber appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes that when the claimant earns weekly wages of less than \$144.00 he is eligible to receive partial unemployment insurance benefits.

ISSUE:

Is the claimant partially unemployed when he works less than 16 hours a week for the employer?

FINDINGS OF FACT:

In February 2004, the employer hired the claimant to work part time on an average of 16 to 20 hours a week. The claimant earns \$9.50 an hour.

Even though the employer's pay period is Monday through Sunday, during a two-week period the claimant works an average of 16 to 20 hours a week. When the claimant noticed he was only scheduled to work a total of 16 hours from August 22 through September 4, he established a claim for benefits. His maximum weekly benefit amount is \$129.00.

The claimant filed claims for the weeks ending August 28, September 5 and October 30, 2010. He reported earning gross wages of \$76.00 for each of these weeks. The other weeks the claimant filed weekly claims; he reported earning gross wages of \$152.00 to \$304.00 a week and did not receive any benefits.

REASONING AND CONCLUSIONS OF LAW:

When a claimant is still employed in a part-time job at the same hours and wages as contemplate when hired and is not working a reduced workweek, he cannot be considered partially unemployed. 871 IAC 24.23(26). The evidence establishes that for the three weeks at issue, the claimant worked a reduced workweek. From August 22 through September 5, he did not work 32 to 40 hours a week. As a result, of working a reduced workweek for these weeks, or eight hours each week, the claimant is eligible to receive partial unemployment insurance benefits for these weeks. For weeks in which the claimant earns gross wages of less than \$144.00, he is eligible to receive partial benefits.

DECISION:

The representative's October 4, 2010 determination (reference 01) is affirmed. The claimant is eligible to receive benefits as of August 22, in weeks in which he earns gross wages of less than \$144.00. Since the claimant would be working a reduced workweek when he earns less than \$144.00, the employer's account is subject to charge for benefits paid to the claimant.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css