

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

ALAN R NISSEN
Claimant

APPEAL NO. 11A-UI-15513-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 10/30/11
Claimant: Appellant (2)

Section 96.4-3 – Eligibility for Benefits
Section 96.7-2-a-2 – Relief of Charges

STATEMENT OF THE CASE:

Alan R. Nissen filed a timely appeal from an unemployment insurance decision dated December 5, 2011, reference 02, that denied benefits to him upon a finding that he could not be considered partially unemployed. Due notice was issued for a telephone hearing to be held December 29, 2011. At the time of the hearing, the parties entered into a stipulation.

ISSUE:

Is the claimant partially unemployed?

Can the employer be relieved of charges?

FINDINGS OF FACT:

Alan R. Nissen is a long-time, part-time employee of Hy-Vee, Inc. He continues to work for Hy-Vee, receiving hours in the same range as in prior years. Mr. Nissen also works part-time time for Crystal Lake Cave, a seasonal employer. Mr. Nissen has been laid off for the season. He anticipates being recalled to work in the spring of 2012.

REASONING AND CONCLUSIONS OF LAW:

The questions here are whether the claimant is a partially unemployed individual who is eligible to receive unemployment insurance benefits and, if so, if this employer should be relieved of charges.

An individual is considered to be partially unemployed if he or she is working fewer than regular hours and earning less than the sum of the individual's weekly benefit amount plus \$15.00. See Iowa Code section 96.19-39-b. The evidence in this record establishes Mr. Nissen's pattern of working multiple part-time job. During the winter months, he works fewer than his regular number of hours, due to his layoff by another employer. Under these circumstances, the administrative law judge concludes that the claimant is partially unemployed and is eligible to receive unemployment insurance benefits.

Hy-Vee, Inc. did not cause Mr. Nissen's unemployment. It offers him the same hours of work as it has historically. Under these circumstances, Iowa Code section 96.7-2-a-2 allows the employer to be relieved of charges.

DECISION:

The unemployment insurance decision dated December 5, 2011, reference 02, is reversed. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible. No benefits shall be charged to the account of Hy-Vee, Inc.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw