

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ERIC D TROY**  
Claimant

**APPEAL NO: 14A-UI-04547-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CHARLES DRAKE & ASSOCIATES**  
Employer

**OC: 03/30/14**  
**Claimant: Appellant (2)**

Iowa Code § 96.19(38) – Totally and Partially Unemployed

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's April 22, 2014 determination (reference 01) that held him ineligible to receive benefits because he was still employed in the same capacity that he was hired and was not considered partially unemployed. The claimant participated at the May 20 hearing. Brenda Madison, the office administrator, 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 March 30, 2014.

**ISSUES:**

Is the claimant partially unemployed?

Is the claimant working the same hours and wages that the employer hired him?

**FINDINGS OF FACT:**

The claimant most recently started working again for the employer in January 2013. The employer hired the claimant to work full-time hours. The claimant drove a truck and did two to three runs a week. He worked an average of 40 hours a week.

Business slowed down for the company the claimant worked. As result of this slowdown, the claimant did not have any work to do in April 2014. Business started picking up and the claimant started working again in May. The claimant started working in May again, but not as many hours that he had been working.

The claimant established a claim for benefits during the week of March 30, 2014. The claimant has filed claims for the week ending April 5 through May 24, 2014. His maximum weekly benefit amount is \$408.00.

**REASONING AND CONCLUSIONS OF LAW:**

Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4(3). When a claimant is working a part-time job and continues working this job at the same hours and wages, he is not considered unemployed. 871 IAC 24.23(26). Since the claimant was working full time and not part time, this regulation does not apply to the claimant's situation.

Instead, the facts establish that as a result of a business slowdown, the claimant was temporarily laid off the month of April. He did not work and was totally unemployed in April. Iowa Code § 96.38.19(a). In May, weeks in which the claimant earns gross wages of \$423.00 or less, he is eligible to receive partial unemployment insurance benefits. Iowa Code § 96.38(19)b.

**DECISION:**

The representative's April 22, 2014 determination (reference 01) is reversed. As of March 30, 2014, the claimant is eligible to receive benefits for weeks in which he earns gross wages of \$423.00 or less.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs