

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**STEPHANIE J DAVIS**  
Claimant

**APPEAL NO: 11A-UI-02771-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WESLEY RETIREMENT SERVICES INC**  
Employer

**OC: 01/09/11**  
**Claimant: Respondent (5)**

Iowa Code § 96.19(38)b – Partial Unemployment  
871 IAC 24.23(26) – Part Time Employment and Reduced Work Week

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed a representative's February 25, 2011 determination (reference 02) that held the claimant qualified to receive benefits and the employer's account subject to charge because she was on a short-term layoff. The claimant participated in the hearing. Betty Stone, the director of human resources, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge finds the claimant qualified to receive partial unemployment insurance benefits.

**ISSUES:**

Was the claimant partially unemployed in January when her work week was reduced?

Is the claimant eligible to receive partial benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer in March 2008. She went to consumers' residences and provided them services. The employer wants employees to call in time the time they arrive at a consumer's residence and the time they leave. During this call, the claimant was to indicate what services she provided by using a code. The claimant sometimes called in her time and other times, she recorded her time manually on paper. Prior to January 2011, the employer talked to the claimant about using the employer's time tracking system by calling in her hours instead of recording her hours on paper.

After the employer discovered the claimant's manually recorded time was not accurate, the employer informed her in early January 2011 that consumers who could not competently report the times she provided services would be assigned to someone else. The employer would assign the claimant other consumers who could verify the time the claimant spent at their residence to provide service.

The employer transferred some of the claimant's consumers to other employees but it took the employer some time to assign the claimant new consumers. As a result of transferring some of her consumers, the claimant worked a few weeks about ten hours a week instead of the 22 to 25 hours she had been working.

After her hours were reduced, the claimant established a claim for benefits during the week of January 9, 2011. It took about a month for the employer to assign the claimant enough new consumers so she was again working 20 or more hours a week.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant shall be deemed partially unemployed in any week in which, while employed at her then regular job, she works less than she had been working and she earns less than her weekly benefits amount plus \$15. Iowa Code § 96.19(38)b. The employer acknowledges the claimant's hours were reduced for awhile because the claimant repeatedly failed to use the employer's call in time keeping system and the times the claimant recorded manually were not always accurate. To remedy this situation the employer had to transfer some of her consumers to other employees. It took a little while for the employer to transfer other clients to the claimant.

When a claimant is still employed in a part-time job at the same hours and wages as contemplated when hired and she is NOT working a reduced workweek, the claimant is not eligible to receive benefits. 871 IAC 24.23(26). In this case the claimant established her claim for benefits because her hours had been temporarily reduced. Since the claimant was working a reduced workweek, she is eligible to receive partial benefits for any weeks she earns gross wages of less than \$337.00.

**DECISION:**

The representative's February 25, 2011 determination (reference 02) is modified but the modification has no legal consequence. The claimant was not temporarily laid off from work. Instead, her hours were temporarily reduced and she established a claim for benefits when she worked a reduced work week. As of January 9, 2011, the claimant is eligible to receive partial benefits for weeks she does not earn gross wages of at least \$337.00. The employer's account is subject to charge.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs