

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JEFFREY A FARRELL
Claimant

APPEAL NO. 13A-UI-02387-S2

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 01/20/13
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Jeffrey Farrell (claimant) appealed a representative's February 22, 2013 decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he was still employed with Hy-Vee (employer). After hearing notices were mailed to the parties' last-known addresses of record, a hearing was scheduled for April 3, 2013, in Des Moines, Iowa. The claimant participated personally. The employer was represented by Paul Jahnke, Hearings Representative, and participated by Mike Blunk, Human Resource Manager. The employer offered and Exhibit One was received into evidence.

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 considered all of the evidence in the record, finds that: The claimant was hired on August 25, 2011, as a part-time night stocker. The claimant signed for receipt of the employer's handbook on August 25, 2011. The claimant received notification at the time of hire that he would be scheduled for work as needed for usually fewer than 30 hours per week. The claimant has worked part-time hours as agreed.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant is disqualified from receiving unemployment insurance benefits.

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. He was still employed in a part-time position as was agreed to at the time he was hired. The claimant is disqualified from receiving unemployment insurance benefits.

DECISION:

The representative's February 22, 2013 decision (reference 01) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/pjs