

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CURT G DALRYMPLE**  
Claimant

**APPEAL NO. 09A-UI-09526 -DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**BEST BUY STORES LP**  
Employer

**Original Claim: 05/10/09  
Claimant: Appellant (4)**

Section 96.4-3 – Able to and Available for work  
Section 96.19-38(b) – Partially Unemployed

**STATEMENT OF THE CASE:**

Curt G. Dalrymple (claimant) appealed a representative's June 25, 2009 decision (reference 01) that concluded he was not eligible to receive benefits as of May 10, 2009, because he was still working the same hours and wages as Best Buy Stores LP (employer) hired him to work. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 20, 2009. The claimant participated in the hearing. No one on the employer's behalf responded to the hearing notice or participated in the hearing. During the hearing, Claimant Exhibit A was offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Was the claimant on a short-term layoff?

When did the claimant work the same number of hours that the employer hired him to work?

**FINDINGS OF FACT:**

The employer hired the claimant to work as a part-time employee on August 12, 2008. The claimant understood he was hired to work less than 32 hours a week. From August 12, 2008, through April 30, 2009, the claimant worked an average of 25 hours a week. (Claimant Exhibit A.)

The employer underwent a corporate restructuring in May 2009. As a result of the restructuring, the claimant was scheduled to work the following hours: week of May 3 – 19.33 hours; week of May 10 – zero; week of May 17 – 6.32 hours; week of May 24 – 6.32 hours; week of May 31 – 13.45 hours; and week of June 7 – 10.63 hours. (Claimant Exhibit A.)

The claimant established a claim for benefits during the week of May 10, 2009. He filed claims for the weeks ending May 16, 23, and 30, and June 6 and received partial benefits for these

weeks. As of the week of June 7, the claimant filed claims but reported excessive earnings and did not receive any benefits these weeks.

**REASONING AND CONCLUSIONS OF LAW:**

A claimant is deemed partially unemployed in any week in which, while employed at his regular job, he works less than his regular hours and earns less than his weekly benefit amount plus \$15.00. Iowa Code §96.19.38(b). A claimant is not considered unemployed if he is still employed in a part-time job at the same hours and wages he was hired to work. 871 IAC 24.23(26). Each week a claimant files a claim for benefits, he must be able to and available for work. Iowa Code § 96.4-3.

The facts indicate that for the weeks ending May 16, 23, and 30, and June 6, the claimant was partially unemployed because he worked less than his regular 25 hours a week while the employer did some restructuring. As of June 7, the employer started scheduling the claimant more hours, which results in the claimant earning excessive wages. Starting with the week of June 7, the claimant again worked the same hours and wages he had been hired to work. Therefore, the claimant is eligible to receive benefit unemployment insurance benefits for the weeks ending May 16, 23, and 30, and June 6, 2009. As of June 7, the claimant is not partially unemployed, because he is again working the number of hours the employer had hired him to work.

**DECISION:**

The representative's June 25, 2009 decision (reference 01) is modified in the claimant's favor. The claimant was partially unemployed during the weeks ending May 16, 23, and 30, and June 6, 2009. He is eligible to receive benefits for these weeks. As of June 7, 2009, when the employer again scheduled the claimant the number of hours he had been hired to work, the claimant is not partially unemployed. As of June 7, the claimant is not eligible to receive benefits, because he is working the number of hours the employer initially hired him to work.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw