

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

EVA M COATNEY
Claimant

APPEAL NO: 14A-UI-00796-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WISE MOTELS INC
Employer

OC: 12/22/13
Claimant: Respondent (2/R)

Iowa Code 96.4(3) – Availability for Work
871 IAC 24.23(26) – Still Employed in a Part-Time Job
Iowa Code § 96.19(38)b – Partially Unemployed

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's January 17, 2014 determination (reference 02) that held the claimant eligible to receive benefits as of December 22, 2013, because she was considered partially unemployed. The claimant did not respond to the hearing notice or participate in the hearing. Sue Shepherd, the manager, appeared on the employer's behalf. Based on the evidence, the employer's arguments, and the law, the administrative law judge concludes the claimant is not eligible to receive benefits as of December 22 because she is not partially unemployed.

ISSUE:

As of December 22, 2013, is the claimant partially unemployed and eligible to receive benefits?

FINDINGS OF FACT:

The employer hired the claimant as a part-time housekeeper in July 2012. The employer informs new hires that from late December until spring, the employer's business slows down and hours may be decreased. Typically, the claimant works 10 to 22 hours a week. In late December 2013, the employer's business slowed down. As a result of the employer's business needs every housekeeper works, but hours an employee works decreases when the employer's business slows down.

The claimant established a claim for benefits during the week of December 22, 2013. She requested vacation pay during the week of December 15 and received it. The week ending December 28, the claimant worked 5.25 hours and earned \$8 an hour. The claimant filed a claim for the week ending December 28. She reported a gross payment of \$115 from wages and vacation pay. The claimant did not receive any benefits for the week ending December 28 because her \$115 from wages and vacation pay exceeded her maximum weekly benefit amount of \$81.

The claimant filed claims for the following weeks:

Week ending	Reported Wages	Benefits Paid	Hours Worked
01/04/14	\$40	\$61	5.25
01/11/14	40	61	9.50
01/18/14	50	51	7.75
01/25/14	40	61	9.00

The claimant received a raise and earned \$8.12 an hour as of early January 2014. The claimant declined to work on January 11 and called in sick on January 12, 2014. The claimant only works for the employer.

REASONING AND CONCLUSIONS OF LAW:

When a claimant is still employed in a part-time job at the same hours and wages as contemplated when hired and is not working a reduced workweek basis, the claimant is not considered partially unemployed. 871 IAC 24.23(26). Since the claimant was hired with the understanding her hours would be reduced during the employer's slow season and the employer scheduled her to work as many hours as possible during the slow season, the evidence establishes the claimant is working the hours and wages that was contemplated when the employer hired her to work. As a result, she cannot be considered partially unemployed, and is not eligible to receive benefits as of December 22, 2013. Since the claimant is not eligible to receive benefits as of December 22, 2013, the issue of overpayment will be remanded to the Benefits Bureau to determine the amount of benefits the claimant has been overpaid since December 22, 2013.

DECISION:

The representative's January 17, 2014 determination (reference 02) is reversed. The employer hired the claimant to work part time with the understanding her hours would decrease when the employer's business slowed down from December until spring. Since the employer continued to schedule the claimant to work as many hours as possible, the employer did not change the pattern of the claimant's work schedule. As of December 22, the claimant is not partially unemployed since she accepted employment knowing her hours would be reduced during the employer's slow season. As of December 22, 2013, the claimant is not eligible to receive benefits.

The issue of overpayment of benefits is **Remanded** to the Benefits Bureau to determine the benefit amount the claimant has been overpaid since December 22, 2013.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs