

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRAIG W PEVERILL
Claimant

APPEAL NO. 12A-UI-02959-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

HY-VEE INC
Employer

OC: 01/08/12
Claimant: Appellant (1)

Section 96.4-3 – Able and Available

STATEMENT OF THE CASE:

Craig Peverill (claimant) appealed a representative's March 20, 2012 decision (reference 02) that concluded he was not eligible to receive unemployment insurance benefits for the benefit week ending January 14, 2012, because he was still employed with Hy-Vee (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 9, 2012. The claimant participated personally. The employer did not provide a telephone number where it could be reached and therefore, did not participate in the hearing.

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 in November 2010, as a part-time kitchen clerk. He consistently worked 24 to 32 hours per week. For the benefit week ending January 14, 2012, the claimant worked 24 hours before he was separated from employment on January 12, 2012. His original claim date for the claim he filed on January 12, 2012, was January 8, 2012.

REASONING AND CONCLUSIONS OF LAW:

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 was still working part time for the employer for the lion's share of the week ending January 14, 2012. The claimant is disqualified from receiving unemployment insurance benefits because he was not available for work for the benefit week ending January 14, 2012, because he was still employed at the same hours and wages as he was when he was hired.

DECISION:

The representative's March 20, 2012 decision (reference 02) is affirmed. The claimant is disqualified from receiving unemployment insurance benefits because was not available for work for the benefit week ending January 14, 2012.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/css