

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**TERI C SNELL**  
Claimant

**HY-VEE INC**  
Employer

**APPEAL 21A-UI-19667-CS-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/27/21**  
**Claimant: Appellant (4)**

Iowa Code § 96.4(3) – Able and Available  
Iowa Admin. Code r. 871-24.23(26) – Able & Available – Part time, same hours and wages  
Iowa Admin. Code r. 871-23.43(4)a – Supplemental Employment  
Iowa Code § 96.1A(37) – Total and Partial Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment

**STATEMENT OF THE CASE:**

On September 3, 2021, the claimant/appellant filed an appeal from the August 24, 2021, (reference 01) unemployment insurance decision that disallowed benefits based on claimant still being employed in her job. The parties were properly notified about the hearing. A telephone hearing was scheduled for October 27, 2021, however due to phone issues it was postponed. A telephone hearing was held on November 18, 2021. Claimant participated at the hearing. Employer participated through hearing representative Erin Bewley. Human Resource Manager, Shauna Abrams, was called to testify on behalf of the employer. Administrative notice was taken of the claimant's unemployment insurance benefits records.

**ISSUES:**

Is the claimant able to work and available for work?

Does the claimant meet the definition of being considered partially unemployed?

Does the claimant meet the definition of being considered totally unemployed?

Does the claimant meet the definition of being temporarily unemployed?

Is claimant employed for the same hours and wages?

Is the employer's account subject to charge?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on October 28, 2021. Claimant works as a part-time checker.

Claimant was hired for part-time work and was not guaranteed a set number of hours. Claimant's wage when she was hired was \$11.00 an hour.

On or about June 27, 2021, claimant was furloughed by her full-time employer, Network Imaging Solutions (573768). Claimant's hours with Hy-Vee, Inc. were not reduced and her hourly wage was not reduced. Claimant was able to work and available for work and picked up more shifts at Hy-Vee, Inc. due to her full-time employer furloughing her for a period of time.

## **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant is partially unemployed effective June 27, 2021, and this part-time employer is relieved of benefit charges.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Code section 96.19(38) provides:

*"Total and partial unemployment".*

a. An individual shall be deemed "*totally unemployed*" in any week with respect to which no wages are payable to the individual and during which the individual performs no services.

b. An individual shall be deemed partially unemployed in any week in which either of the following apply:

(1) While employed at the individual's then regular job, the individual works less than the regular full-time week and in which the individual earns less than the individual's weekly benefit amount plus fifteen dollars.

(2) The individual, having been separated from the individual's regular job, earns at odd jobs less than the individual's weekly benefit amount plus fifteen dollars.

c. An individual shall be deemed temporarily unemployed if for a period, verified by the department, not to exceed four consecutive weeks, the individual is unemployed due to a plant shutdown, vacation, inventory, lack of work or emergency from the individual's regular job or trade in which the individual worked full-time and will again work full-time, if the individual's employment, although temporarily suspended, has not been terminated.

Iowa Admin. Code r. 871-23.43(4)a provides in part:

**(4) Supplemental employment.**

a. An individual, who has been separated with cause attributable to the regular employer and who remains in the employ of the individual's part-time, base period employer, continues to be eligible for benefits as long as the individual is receiving the

same employment from the part-time employer that the individual received during the base period. The part-time employer's account, including the reimbursable employer's account, may be relieved of benefit charges....

Hy-Vee, Inc. is claimant's supplemental part-time employer. Claimant's full-time employer Network Imaging Solutions laid claimant off for a period of time. Because the claimant has other base-period wages and is currently employed part-time, she may be considered partially unemployed. Inasmuch as the current part-time employer is offering the same wages and hours as in the base period contemplated at hire, no benefit charges shall be made to its account. For any week of benefits claimed, claimant must report gross wages earned that week to establish whether or not she is eligible for partial unemployment benefits.

**DECISION:**

The August 24, 2021, (reference 01) unemployment insurance decision is modified in favor of the appellant. The claimant is partially unemployed, and benefits are allowed, provided she is otherwise eligible. The account of the current part-time employer (account number 006858) shall not be charged. The benefits withheld shall be paid to claimant, provided she is otherwise eligible. Claimant should report gross wages for the week in which they are earned for the purpose of establishing continuing eligibility for partial unemployment benefits.



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Carly Smith  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

December 21, 2021

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Decision Dated and Mailed

cs/abd