

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JADA R HANSON
Claimant

APPEAL NO: 11A-UI-16572-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

AGRI STAR MEAT & POULTRY LLC
Employer

**OC: 03/27/11
Claimant: Respondent (2/R)**

Iowa Code § 96.4(3) – Able to and Available for Work
871 IAC 24.18 – Excessive Earnings

PROCEDURAL STATEMENT OF THE CASE:

The employer appealed a representative's December 22, 2011 determination (reference 06) that held the claimant eligible to receive benefits as of November 20, 2011, because she was working part time and the employer had reduced her hours. The claimant did not respond to the hearing notice or participate in the hearing. Diane Guerrero, the human resource 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 for the week ending November 26, 2011.

ISSUE:

Were the claimant's hours reduced during the week ending November 26, 2011?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of March 27, 2011. Her maximum weekly benefit amount is \$234.

The employer hired the claimant as a full-time employee in July 2011. The week ending November 26, the claimant called in sick on Monday and Tuesday. She worked on Wednesday, November 23. She received eight hours of holiday pay for Thanksgiving. She was not scheduled to work on Friday, November 25. On December 2, she received gross wages of \$257 for the work she performed and her holiday pay for the week of November 21.

The claimant filed a claim for benefits for the week ending November 26. She reported wages of \$195 for this week. She received \$97 in partial unemployment insurance benefits for the week ending November 26.

REASONING AND CONCLUSIONS OF LAW:

Each week a claimant files a claim for benefits, she must be able to and available for work. Iowa Code § 96.4(3). For the week of November 20, the claimant called in sick two days,

worked one day and received holiday pay for Thanksgiving. Even though the claimant was ill and unable to work two days, she earned gross wages of \$257 this week.

The representative incorrectly determined the claimant worked part-time. She worked full-time. It was because she was ill and unable to work two days that her gross wages were lower. The law the representative relied on in the December 22, 2011 determination, 871 IAC 24.23(26), does not apply when a claimant works full-time. Since the claimant earned more than \$249, she earned excessive wages, 871 IAC 24.18, and is not eligible to receive benefits for the week ending November 26. The issue of overpayment will be remanded to the Claims Section to determine.

DECISION:

The representative's December 22, 2011 determination (reference 06) is reversed. The claimant worked full-time, not part-time. Even though the claimant was unable to work two scheduled days, she earned gross wages of more than \$249 and is not eligible to receive partial benefits for the week ending November 26, 2011. The issue of overpayment is **Remanded** to the Claims Section to determine.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw