

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DESTINY WHARTON
Claimant

APPEAL NO: 13A-UI-11205-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

SUKUP MANUFACTURING CO INC
Employer

OC: 08/25/13
Claimant: Respondent (1/R)

Iowa Code § 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Sukup Manufacturing Company, Inc. (employer) appealed an unemployment insurance decision dated September 23, 2013, reference 04, which held that Destiny Wharton (claimant) was eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 30, 2013. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which she could be contacted, and therefore, did not participate. The employer participated through Mary Amsbaugh, Human Resources Representative and John Swanson, Plant Manager. Employer's Exhibit One was admitted into evidence.

ISSUES:

The issues are whether the claimant is disqualified for benefits, whether she was overpaid unemployment insurance benefits, whether she is responsible for repaying the overpayment and whether the employer's account is subject to charge.

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 employed as a full-time temporary production worker from April 29, 2013 through August 26, 2013. She was hired for the production season and planned on going to school in the fall but asked if she could stay on. The employer did not hire the claimant as a part-time worker due to her excessive absenteeism and her limited availability. She previously worked 40 hours per week but as of August 24, 2013, was only available to work 12 hours per week and not on Saturdays as required of part-time employees.

An issue as to whether the claimant is available for work arose as a result of the hearing. This issue was not included in the notice of hearing and the case will be remanded for an initial determination of this issue.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's separation from employment qualifies her to receive unemployment insurance benefits. The claimant worked until the end of the summer as agreed upon at the time of hire. Pursuant to 871 IAC 24.26(22), this separation is not disqualifying. This code section provides, in pertinent part, "The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed." *Id.*

Consequently, benefits are allowed, provided the claimant is otherwise eligible. However, this case is remanded for further determination on whether the claimant meets the availability requirements of the law since she is now only available to work 12 hours per week. Claimants who earn wage credits in full-time employment must remain available to perform full-time work to be eligible for unemployment. See 871 IAC 24.22(2)f.

DECISION:

The unemployment insurance decision dated September 23, 2013, reference 04, is affirmed. The claimant's separation is non-disqualifying and she is qualified to receive unemployment insurance benefits, provided she is otherwise eligible. The case is remanded for a review and determination on the availability issue.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/css