

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GREGORY M OVERTON
Claimant

APPEAL NO. 09A-UI-10314-A

**ADMINISTRATIVE LAW JUDGE
DECISION**

SILICON GRAPHICS INC
Employer

**Original Claim: 03/08/09
Claimant: Appellant (2)**

Section 96.5-7 – Vacation Pay

STATEMENT OF THE CASE:

Gregory M. Overton filed a timely appeal from an unemployment insurance decision dated July 13, 2009, reference 01, that denied unemployment insurance benefits to him for the week of May 4, 2009, upon a finding that he was entitled to receive vacation pay for the week in question. After due notice was issued, a hearing was held in Des Moines, Iowa, on July 14, 2009, with Mr. Overton participating. The employer, Silicon Graphics, Inc., did not respond to the hearing notice.

ISSUE:

Is the claimant entitled to receive vacation pay for the week of May 4, 2009?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: Gregory M. Overton's last day of employment with Silicon Graphic, Inc., was February 26, 2009. In connection with his separation from employment, he was promised vacation pay accrued through April 27, 2009, in the gross amount of \$8,330.01. Mr. Overton had received none of the vacation pay when the employer filed for bankruptcy. Mr. Overton has received no indications from the bankruptcy court as to when or if he will ever receive vacation pay that was promised him.

REASONING AND CONCLUSIONS OF LAW:

The question is whether benefits must be withheld for the week of May 4, 2009, because of vacation pay owed to the claimant. The administrative law judge concludes that benefits should not be withheld due to the company's bankruptcy. At this time, it cannot be determined when or whether Mr. Overton will actually receive any of the vacation pay.

Should he receive the vacation pay at some time in the future, he is directed to report that fact to the Agency.

DECISION:

The unemployment insurance decision dated July 13, 2009, reference 01, is reversed. Benefits shall not be withheld for the week of May 4, 2009.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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