

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEFFREY PRINS**  
Claimant

**APPEAL NO: 13A-UI-08237-BT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALPHA-OMEGA SPRAY INSULATION LLC**  
Employer

**OC: 06/16/13**  
**Claimant: Respondent (2/R)**

Iowa Code § 96.4-3 - Availability for Work  
Iowa Code § 96.3-7 - Overpayment

**STATEMENT OF THE CASE:**

Alpha-Omega Spray Insulation, LLC (employer) appealed an unemployment insurance decision dated July 12, 2013, reference 02, which held that Jeffrey Prins (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 August 20, 2013. The claimant did not comply with the hearing notice instructions and did not call in to provide a telephone number at which he could be contacted, and therefore, did not participate. The employer participated through co-owner, Travis Dagele.

**ISSUE:**

The issue is whether the claimant meets the availability requirements of the law.

**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 general laborer from January 2013 through May 17, 2013 when he was discharged for refusing to go the next job.

The employer completed the protest form by marking box number six which states the claimant refused suitable work. However, the employer also submitted an explanation on the protest form which said, "Employee left job site without informing employer, he took the company vehicle without permission from employer after hours, took tools from employer." No fact-finding interview was held and no determination was made with regard to the separation issues. Since the issues were not listed on the hearing notice, this case will be remanded for an investigation and determination on the separation.

The claimant filed a claim for unemployment insurance benefits effective June 16, 2013 and has received benefits after the separation from employment.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant is able and available for work. For an individual to be eligible to receive benefits, he must be able to work, available to work, and earnestly and actively seeking work. Iowa Code § 96.4-3; 871 IAC 24.22(2). The claimant has the burden of proof in establishing his ability and availability for work. *Davoren v. Iowa Employment Security Commission*, 277 N.W.2d 602 (Iowa 1979). When the claimant refused to continue working on May 17, 2013, he removed himself from the labor market and unduly limited his availability to work. He therefore does not meet the availability requirements of the law and benefits are denied.

Consequently, benefits were paid to the claimant to which he was not entitled. Those benefits must be recovered in accordance with the provisions of Iowa law. Iowa Code § 96.3-7-a.

The separation issues raised by the employer were not included in the Notice of hearing for this case, and the case will be remanded for an investigation and determination on those issues. 871 IAC 26.14(5).

**DECISION:**

The unemployment insurance decision dated July 12, 2013, reference 02, is reversed. The claimant does not meet the availability requirements of the law and benefits are denied. The matter is remanded to the Claims Section for investigation and determination of the overpayment and separation issues.

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Susan D. Ackerman  
Administrative Law Judge

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Decision Dated and Mailed

sda/css