

**STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT**

03-620

CENTRAL LUMBER COMPANY

VERSUS

WILLIAM DUHON

THIBODEAUX, J., concurring.

The majority proposes to utilize La.R.S. 23:1021(10)(a)(iii) for the calculation of the claimant's average weekly wage. This section refers to a "part-time employee." A "part-time employee" is defined in La.R.S. 23:1021(9) as "an employee who as a condition of his hiring knowingly accepts employment that (a) customarily provides for less than forty hours per week, and (b) that is classified by the employer as a part-time position." The record does not demonstrate that Mr. Duhon fits into this definition of a "part-time employee." Since Mr. Duhon does not fit into any of the categories enumerated in La.R.S. 23:1021(a)-(c), I would remand for a calculation of his average weekly wage under section (d). That section states that "[i]f the employee is employed on a unit, piecework, commission, *or other basis . . .*" My view is that the employee fits into the term "or other basis." The record is insufficient for us to calculate his average weekly wage under this subsection. I suspect that the result would be the same as that which the majority proposes; however, La.R.S. 23:1021(d) is the most appropriate vehicle by which to evaluate this claim.