

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

GREGG A THOMSON
Claimant

APPEAL NO. 10A-UI-01038-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Original Claim: 07/26/09
Claimant: Appellant (2)**

Section 96.4-4 – Earnings Requirement/One and One-Half Times

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated January 14, 2010, reference 01, that denied extended (EUC) benefits effective July 26, 2009, because he failed to earn at least one and one-half times the wages in his high quarter. A telephone hearing was held on February 19, 2010. The claimant participated.

ISSUE:

The issue is whether the claimant has earnings one and one-half times his high quarter wages.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered the evidence in the record, finds that: After the claimant filed his July 26, 2009 unemployment claim, the department mailed him a monetary record that showed the wages he earned during the base period of his employment that qualified him for benefits. The record showed he earned wages from Mickle Electric in the amount of \$12,118 for the first quarter of 2009, and \$5,562 for the fourth quarter of 2008. The claimant was eligible for a weekly benefit amount of \$374.00 with a maximum benefit amount of \$5,893.75. The claimant exhausted his benefits with a week ending claim of December 5, and he later filed for extended benefits but was denied.

Mickle Electric reported taxable wages to the department in the amount of \$4,562 for the second quarter of 2009, which is part of the claimant's based period, but was not included in the monetary record. The employer's second quarter tax report was not delinquent until July 31, so it may have come in just after the department issued the monetary record to the claimant on July 27.

The claimant's base period wages are: 4/08 - \$5,562; 1/09 - \$12,118; 2/09 - \$4,562, which totals \$22,242. Since 1/09 is his highest quarter, and one and one-half times is \$18,177, that means his total base period wages exceed the eligibility requirement for extended benefits.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4-4 provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

4. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this subsection in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least two hundred fifty dollars, as a condition to receive benefits in the next benefit year.

The administrative law judge concludes that the claimant is eligible to receive extended (EUC) benefits, because his base period wages meet the one and one-half times high quarter requirement.

The department should correct the claimant's monetary record to include his 2/09 wages of \$4,562. While the claimant might not have timely caught the mistake of not including these wages for his regular benefit eligibility, he filed a timely appeal for extended benefits in this matter, and is entitled to those benefits, provided he is otherwise eligible.

DECISION:

The decision of the representative dated January 14, 2010, reference 01, is reversed. The claimant is eligible to receive extended (EUC) benefits, because he does satisfy the one and one-half wages in his high quarter requirement.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw