

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BILLY J STEWART
Claimant

APPEAL NO. 11A-EUCU-00795-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/12/10
Claimant: Appellant (4)

Public Law 110-252, Title IV –Emergency Unemployment Compensation
Iowa Code Section 96.19(20) – Definition of Exhaustee

STATEMENT OF THE CASE:

Billy Stewart filed a timely appeal from the October 19, 2011, reference 01 unemployment insurance decision that concluded he was not eligible for extended unemployment compensation (EUC), effective December 12, 2010 based on an Agency conclusion that he was monetarily eligible for regular unemployment insurance benefits on a Tennessee Unemployment Insurance Claim effective April 3, 2011. After due notice was issued, a telephone hearing was held on December 15, 2011. Mr. Stewart participated and presented additional testimony through Katherine Ivey, Unemployment Insurance Claims Investigator with the Tennessee Department of Labor and Workforce Development. Department Exhibits D-1 through D-4 were received into evidence. The hearing in this matter was consolidated with the hearing in Appeal Number 11A-EUCU-00796-JTT.

ISSUE:

Whether Mr. Stewart met the definition of an exhaustee for purposes of EUC benefits disbursed to him for the period of April 3, 2011 through October 8, 2011.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Billy Stewart established an Iowa combined wage claim for unemployment insurance benefits that was effective December 12, 2010 and received benefits. Mr. Stewart initially received \$4,950.77 in regular unemployment insurance benefits for the period of December 12, 2010 through the benefit week that ended March 26, 2011. Mr. Stewart then began receiving extended unemployment insurance benefits (EUC) on the Iowa Claim. Mr. Stewart received \$9,109.43 in EUC benefits on the Iowa claim for the 28-week period of March 27, 2011 through October 8, 2011. \$8,776.43 of those benefits were for the period of April 3, 2011 through October 8, 2011. \$3,996.00 of those benefits were for the period of April 3, 2011 through June 25, 2011.

In October 2011, Iowa Workforce Development discovered that Mr. Stewart had likely been monetarily eligible for regular benefits on a Tennessee claim effective April 3, 2011. Though Mr. Stewart was and is a resident of Tennessee, Mr. Stewart had made no previous inquiry regarding whether he might be eligible for unemployment insurance benefits through Tennessee. The Tennessee Department of Labor and Workforce Development subsequently determined that Mr. Stewart had been eligible for \$1,484.00 in regular benefits for the period of April 3, 2011 through June 25, 2011 on the Tennessee combined wage claim. As of June 25, Mr. Stewart would have exhausted his eligibility for regular benefits under the Tennessee claim. Tennessee subsequently disbursed EUC benefits to Mr. Stewart for the three-week period of October 9, 2011 through October 29, 2011.

REASONING AND CONCLUSIONS OF LAW:

The Emergency Unemployment Compensation (EUC) program was created by Public Law 110-252, Title VI. This new temporary unemployment insurance program provides up to 13 additional weeks of unemployment benefits to certain workers who have exhausted their rights to regular unemployment compensation benefits.

In order to receive extended unemployment insurance benefits (EUC) a person must be an “exhaustee” within the meaning of unemployment insurance law. Pursuant to Iowa Code section 96.19(20), a person is not an “exhaustee” if she is monetarily eligible for regular unemployment insurance benefits in Iowa or another State. The relevant portion of the statute follows:

20. “Exhaustee” means an individual who, with respect to any week of unemployment in the individual’s eligibility period has received, prior to such week, all of the *regular* benefits that were available to the individual under this chapter *or any other state law...* in the individual’s current benefit year that includes such weeks.

[Emphasis added; additional text omitted.]

Because Mr. Stewart was eligible for regular Tennessee benefits for the period of April 3, 2011 through June 25, 2011, he did not meet the definition of an exhaustee for purposes of the Iowa claim during that same period and was not eligible for EUC benefits on the Iowa claim. Effective June 25, 2011, Mr. Stewart was no longer eligible for regular benefits on the Tennessee claim. At that point, Mr. Stewart did meet the definition of an exhaustee for purposes of the Iowa claim. Mr. Stewart continued to be an exhaustee for purposes of the Iowa claim through the benefit week that ended October 8, 2011. Mr. Stewart was eligible for EUC benefits on the Iowa claim for the period of June 26, 2011 through October 8, 2011, provided he met all other eligibility requirements.

DECISION:

The Agency representative's October 19, 2011, reference 01, decision is modified as follows. The claimant was not an exhaustee during the period of April 3, 2011 through June 25, 2011 and was not eligible for benefits for that period. The claimant was an exhaustee during the period of June 26, 2011 through October 8, 2011 and was eligible for EUC benefits on the Iowa claim for that period, provided he was otherwise eligible.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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