

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUSAN B FELLER

Claimant

SCHNUCK MARKETS INC

#745 BETTENDORF

Employer

APPEAL NO: 10A-UI-00744-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 10/11/09

Claimant: Respondent (1)

Section 96.23 – Workers’ Compensation/Substitution of Quarters

STATEMENT OF THE CASE:

The employer appealed a department decision dated December 30, 2009, reference 01, that held the claimant was eligible for benefits based on a substitution of base-period wages for workers’ compensation. A telephone hearing was held on February 25, 2010. The claimant and the employer did not participate in the hearing.

ISSUE:

Whether the claimant is eligible to substitute base-period wages earned in prior quarters to receiving workers’ compensation.

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record, finds: The claimant received workers’ compensation that entitles her to substitute wages earned in prior quarters to have an eligible unemployment claim.

The claimant and the employer failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.23 provides:

The department shall exclude three or more calendar quarters from an individual's base period, as defined in section 96.19, subsection 3, if the individual received workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17 or indemnity insurance benefits during those three or more calendar quarters, if one of the following conditions applies to the individual's base period:

1. The individual did not receive wages from insured work for three calendar quarters.

2. The individual did not receive wages from insured work for two calendar quarters and did not receive wages from insured work for another calendar quarter equal to or greater than the amount required for a calendar quarter, other than the calendar quarter in which the individual's wages were highest, under section 96.4, subsection 4.

The department shall substitute, in lieu of the three or more calendar quarters excluded from the base period, those three or more consecutive calendar quarters, immediately preceding the base period, in which the individual did not receive such workers' compensation benefits or indemnity insurance benefits.

The administrative law judge concludes that the claimant received qualified workers' compensation and is eligible to substitute prior quarter earnings for base period wages on her unemployment claim.

DECISION:

The department decision dated December 30, 2009, reference 01, is affirmed. The claimant is eligible to substitute quarters for base period wages. Benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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