

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ARNIE B BENITEZ
Claimant

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

APPEAL NO. 24A-UI-00187-JT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 12/10/23
Claimant: Appellant (2R)**

Iowa Code Section 96.4(4) – Second Benefit Year

STATEMENT OF THE CASE:

On January 4, 2024, Arnie Benitez (claimant) filed a timely appeal from the December 26, 2023 (reference 01) decision that denied regular benefits effective December 10, 2023, based on an IWD Benefits Bureau determination that the claimant did not meet the eight-times-weekly-benefit-amount minimum earnings requirement and, therefore, was not monetarily eligible for benefits in a second benefit year. The claimant requested an in-person hearing. After due notice was issued, an in-person hearing was held on February 9, 2024 at the Mason City IowaWORKS Center. Claimant participated. Exhibits A, B and C were received into evidence. The administrative law judge took official notice of the following IWD administrative records: DBIN, DBRO, KCCO, Wage-A, WAGE-C. The administrative law judge took official notice of the quarterly wage reports that employer Orton Landscape and Concrete (employer account number 635936) submitted via www.myiowa.org. The administrative law judge took official notice of the WAGE-A and WAGE-C for a Social Security number one digit off from the claimant's Social Security number.

ISSUES:

Whether the claimant has met the eight-times weekly benefit amount earnings requirement to be monetarily eligible for benefits in connection with a second claim year.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Arnie Benitez, aka Ernie Benitez (claimant), established an original claim for benefits that was effective December 11, 2022. Iowa Workforce Development set the weekly benefit amount at \$593.00. Eight times \$593.00 is \$4,744.00. The claimant established the December 11, 2022 claim in response to a December 9, 2022 layoff from employment with Orton Landscape and Concrete (employer account number 635936). The claimant received benefits in connection with the December 11, 2022 claim.

In April 2023, the claimant returned to employment with Orton Landscape and Concrete (employer account number 635936). In connection with that return to employment, the employer made a documentation error when recording the claimant's Social Security number. The employer erroneously documented the second to last digit of the Social Security number as

an 8 in stead of a 9. The employer also erroneously documented the claimant's name as Ernie, rather than his legal name, Arnie. The claimant advises that when he began the employment in 2022, he submitted documents to the employer to verify his name and Social Security number, but that when he returned to work for the same employer in 2023, the employer had an individual verbally collect his name and Social Security number. This verbal communication led to the erroneous documentation of the claimant's name and Social Security number.

Due to the documentation error pertaining to the Social Security number, Orton Landscape and Concrete (employer account number 635936) reported the claimant's wages to IWD under the erroneous Social Security number when reporting wages for the second, third and fourth quarters of 2023. The employer erroneously substituted an 8 for the second to last digit in the Social Security number. The claimant's wages for those quarters were as follows:

<u>Quarter</u>	<u>Wages</u>
2/2023	\$11,242.00
3/2023	\$12,801.25
4/2023	\$3,685.00

See the quarterly wages reported by employer account number 635936 via www.myiowauai.org. The claimant was not paid wages during the first quarter of 2023.

Based on the employer's quarterly wage reporting error, IWD erroneously assigned the claimant's quarterly wages for the second, third and fourth quarters of 2023 to a completely unrelated individual. The administrative law judge located the Orton Landscape and Concrete wages at that unrelated individuals WAGE-A report.

The claimant has provided a paystub and work invoices substantiating that he performed work for Orton Landscape and Concrete in 2023.

The claimant also provided a Real ID Iowa driver's license, which reflects the name Arnie.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4(4)(a-c) provides:

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

4. a. 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 paragraph 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.

c. 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 eight times the individual's weekly benefit amount, as a condition to receive benefits in the next benefit year.

[Emphasis added.]

The evidence in the record establishes that the claimant met the eight-times-weekly-benefit-amount minimum earnings requirement prior to establishing the new benefit year that was effective December 10, 2023. After the claimant established the earlier December 11, 2022 benefit year, and before the claimant established the December 10, 2023 new benefit year, the claimant returned to work for the same employer and was paid wages well in excess of eight times the \$593.00 weekly benefit amount.

The claimant is monetarily eligible for benefits in connection with the new benefit year that began December 10, 2023. The claimant must meet all other eligibility requirements.

DECISION:

The December 26, 2023 (reference 01) decision is REVERSED. The claimant met the eight-time-weekly-benefit-amount earnings requirement and is monetarily eligible for benefits in connection with benefit year that started December 10, 2023, provided he is otherwise eligible.

REMAND:

This matter is remanded to IWD Benefits Bureau for correction of the claimant's WAGE-A record, weekly benefit amount, and maximum benefit amount, consistent with this decision. The claimant was paid wages as follows:

<u>Quarter</u>	<u>Wages</u>
2/2023	\$11,242.00
3/2023	\$12,801.25
4/2023	\$3,685.00

The claimant's employer (635936) reported the wages under an erroneous Social Security number by substituting an 8 for the second to last digit of the claimant's Social Security number. IWD erroneously assigned the claimant's wages for these three quarters to a completely unrelated individual under the erroneous Social Security number that includes an 8 as the second to last digit, rather than the 9 second to last digit in the claimant's correct Social Security number.



James E. Timberland
Administrative Law Judge

February 14, 2024
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.