

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

APRIL M WALDEMAR
Claimant

APPEAL NO. 13A-UI-04459-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**WOODHARBOR DOORS & CABINETRY INC
WOODHARBOR MOLDING & MILLWORK
INC**
Employer

**OC: 03-05-13
Claimant: Appellant (1)**

Section 96.23 – Substitution of Wages Due to Receipt of Workers' Compensation

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the March 5, 2013, reference 01, decision that denied substitution of workers' compensation benefits she received into her base period. After due notice was issued, a hearing was held on May 29, 2013. The claimant did participate. The employer did participate through Lori Nelson, Human Resources Specialist.

ISSUE:

Whether workers' compensation benefits can be substituted into the claimant's base period?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was injured at work on March 27, 2008 and thereafter received workers' compensation benefits in the form of temporary total disability benefits and permanent partial disability benefits. The workers' compensation settlement agreement records disclose that the claimant received temporary total disability benefits through December of 2010. Thereafter she was paid permanent partial disability benefits.

REASONING AND CONCLUSIONS OF LAW:

The first issue is whether the claimant is entitled to substitute calendar quarters prior to the regular base period due to receiving workers' compensation benefits.

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 claimant does not qualify to have wage credits from before her regular base period used to determine her qualification for unemployment insurance benefits since she did not receive TTD in three or more calendar quarters of her regular base period.

DECISION:

The unemployment insurance decision dated March 5, 2013, reference 01, is affirmed. The claimant is not entitled to substitute calendar quarters prior to the regular base period.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs

Online resources:

National Career Readiness Certificate through the Skilled Iowa Initiative: <http://skillediowa.org/>
Facts About Unemployment Handbook: <http://www.iowaworkforce.org/ui/handbook.htm>
Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>
<http://www.iowaworkforce.org/ui/uiemployers.htm>