

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RICHARD ALLMAN
Claimant

APPEAL 19A-UI-00375-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 01/06/19
Claimant: Appellant (4R)

Iowa Code § 96.4(4) – Determination of Benefits
Iowa Code § 96.3(4) – Determination of Benefits
Iowa Admin. Code r. 871-24.9(1)B – Monetary Determinations

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 9, 2019 monetary determination. After due notice was issued, a telephone hearing was held on January 30, 2019. Claimant participated personally. Amy Allman participated as a witness for claimant. Claimant's Exhibit A was admitted. The administrative law judge took official notice of the claimant's unemployment insurance benefits records.

ISSUES:

Did the claimant file a timely appeal to the monetary record?
Is the monetary record correct?

FINDINGS OF FACT:

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

Claimant filed an initial claim for unemployment insurance benefits with an effective date of January 6, 2019. Claimant filed an appeal to the January 9, 2019 monetary record on January 14, 2019, which was within ten days of the date of mailing of the monetary record. The base period for the claim year includes the fourth quarter of 2017, and the first, second, and third quarters of 2018.

Claimant worked for Pacific Vision Contractors LLC beginning April 3, 2018 and ending July 10, 2018, when he permanently separated from employment. See Exhibit A. Claimant worked approximately 40 hours per week at an hourly rate of pay of \$20.00. He was a general laborer. Claimant earned \$9,800.00 from this employer during his period of employment. See Exhibit A. The wages paid by Pacific Vision Contractors LLC were not included in the January 9, 2019 monetary record.

The matter of unrecorded wages from Pacific Vision Contractors LLC that were paid during claimant's base period shall be remanded to the Tax Bureau of Iowa Workforce Development for an investigation and determination. Further, the issue of claimant's separation from employment with Pacific Vision Contractors LLC shall be remanded to the Benefits Bureau for an initial investigation and determination, with notice and opportunity to be heard provided to both parties.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant filed a timely appeal to the monetary record. Further, it appears that based upon wages paid by Pacific Vision Contractors LLC, the claimant has additional wages that should be included in his base period.

Iowa Code section 96.4(4)a 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.

Iowa Code § 96.3(4) provides:

4. Determination of benefits. With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest; the director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

If the number of dependents is:	The weekly benefit amount shall equal the following fraction of high quarter wages:	Subject to the following maximum percentage of the statewide average weekly wage.
0	1/23	53%
1	1/22	55%
2	1/21	57%
3	1/20	60%
4 or more	1/19	65%

The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section "dependent" means dependent as defined in section 422.12, subsection 1, paragraph "a", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Nonworking spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

Iowa Admin. Code r. 871-24.1(11) provides:

Base period. The period of time in which the amount of wages paid to an individual in insured work which determines an individual's eligibility for, and the amount and duration of, benefits. The base period consists of the first four of the last five completed calendar quarters immediately preceding the calendar quarter in which the individual's claim for benefits is effective with the following exception. The department shall exclude three or more calendar quarters from the individual's base period in which the individual received workers' compensation or indemnity insurance benefits and substitute consecutive calendar quarters immediately preceding the base period in which the individual did not receive workers' compensation or indemnity insurance benefits. This exception applies under the following conditions:

- a. The individual did not work in and receive wages from insured work for three calendar quarters of the base period, or
- b. The individual did not work in and receive wages from insured work for two calendar quarters and lacked qualifying wages from insured work to establish a valid claim for benefits during another quarter of the base period.

The claimant has presented sufficient and credible evidence to establish that there are unrecorded wages in the second and third quarter of 2018 from Pacific Vision Contractors LLC that were not previously included in his base period and monetary determination calculations. Those wages may be included in the monetary record for claimant's base period and the monetary calculations shall be redetermined.

DECISION:

The claimant filed a timely appeal to the monetary record dated January 9, 2019. The January 9, 2019, monetary record is modified in favor of the claimant pending an investigation by the tax section of Iowa Workforce Development to add unrecorded wages from Pacific Vision Contractors LLC.

REMAND:

The unrecorded wage issue delineated in the findings of fact is remanded to the Tax Bureau of Iowa Workforce Development for addition of the wages from Pacific Vision Contractors LLC according to the evidence contained in Claimant's Exhibit A. Claimant's monetary eligibility and determination calculations shall be reevaluated after that investigation and determination.

The separation issue delineated in the findings of fact shall be remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination.

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs