

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

THOMAS SCHLICHTING
Claimant

APPEAL NO. 12A-UI-02481-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 02/26/12
Claimant: Appellant (4)**

Section 96.4(4) – Minimum Earnings Required for Eligibility

STATEMENT OF THE CASE:

Thomas Schlichting filed a timely appeal from the March 8, 2012, reference 01, decision that denied benefits effective February 26, 2012 based on an Agency conclusion that he had not met the \$250.00 minimum earnings requirement to be eligible for benefits during a second claim year. After due notice was issued, a hearing was held on March 29, 2012. Claimant participated and presented additional testimony through Robert Schlichting. Exhibit A was received into evidence.

ISSUE:

Whether the claimant has worked in and earned at least \$250.00 from insured work during or subsequent to the benefit year in which he collected benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Thomas Schlichting established a claim for unemployment insurance benefits that was effective February 27, 2011 and received benefits in connection with the claim. The claim was prompted by a layoff from R.G.S. Electric, L.L.C. When the benefit year expired, Mr. Schlichting established a new original claim for benefits that was effective February 26, 2012. At the time Mr. Schlichting established the new original claim, Mr. Schlichting had not had any additional employment and had not earned at least \$250.00 from insured work since separating from R.G.S., Electric L.L.C. on March 3, 2011. Mr. Schlichting's brother, Robert Schlichting is the Chief Executive Officer of R.G.S. Electric, L.L.C. On March 17 and 19, Thomas Schlichting performed 12 hours of general labor for the sole purpose of meeting the \$250.00 minimum earnings requirement. The employer paid Thomas Schlichting \$21.00 per hour for the work. The total gross wages paid to Thomas Schlichting were \$252.00. The wages were actually paid by a check issued on March 10, 2012, prior to completion of the actual work.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4-4 provides:

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

4. 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 subsection 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.

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 two hundred fifty dollars, as a condition to receive benefits in the next benefit year.

"Insured work" is employment, as defined in a state employment security law, performed for a subject employer, or federal employment as defined in the Social Security Act. 871 IAC 24.1(62).

Mr. Schlichting had not met the \$250.00 minimum earnings requirement and was not eligible for benefits in connection with a second claim year prior to the performing additional short-term work for R.G.S. Electric, L.L.C., on March 17 and 19, 2012. Benefits are denied for the period of February 26, 2012 through the benefit week that ended March 17, 2012. Effective the week that ended March 24, 2012, Mr. Schlichting met the \$250.00 minimum earnings requirement. Effective the week that ended March 24, 2012, Mr. Schlichting is eligible for benefits in connection with the second claim year, provided he meets all other eligibility requirements.

DECISION:

The Agency representative's March 8, 2012, reference 01, decision is modified as follows. The claimant had not met the \$250.00 minimum earnings requirement and was not eligible for benefits in connection with a second claim year until March 19, 2012. Benefits are denied for the period of February 26, 2012 through the benefit week that ended March 17, 2012. Effective the week that ended March 24, 2012, the claimant met the \$250.00 minimum earnings requirement. Effective the week that ended March 24, 2012, the claimant is eligible for benefits in connection with the second claim year, provided he meets all other eligibility requirements.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/kjw