

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRY D JORDAN
Claimant

APPEAL NO: 12A-EUCU-00141-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TPI IOWA LLC
Employer

OC: 06/05/11
Claimant: Appellant (1)

Iowa Code § 96.3(4) – Monetary Eligibility Based on Wages Paid

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 14, 2012 determination (reference 12) that denied his request to have additional wages added to the fourth quarter of 2011 or for October 1 through December 31, 2011. The claimant participated in the hearing. Danielle Williams and Dana Woody, a payroll specialist, appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes that the claimant request to add wages to the fourth quarter of 2011 is at this time denied.

ISSUE:

Can wages that the claimant earned but were not paid by December 31, 2011, be added to the fourth quarter of 2011?

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of June 5, 2011. He exhausted these regular unemployment insurance benefits in late August 2011. Since he still had Emergency Unemployment Compensation funds available under his September 28, 2008 claim, he received the balance of these funds in early January 2011.

The claimant started working for the employer on August 22, 2011. The employer pays employees weekly. For work an employee does April 23 through 27, 2012, the employer pays an employee for this work on the following Thursday, or May 3, 2012. As of December 29, the employer had paid the claimant for work he performed through December 23, 2011. The claimant's gross wages paid by the employer through October 7 through December 29, 2011, totaled \$7,455. For work the claimant performed December 26 through 30, 2011, the employer paid him gross wages of \$480 on January 5, 2012.

The claimant is a member of a lawsuit alleging the employer did not properly pay overtime hours. As of April 23, this lawsuit has not been resolved. As of April 23, the claimant does not know if he will or will not receive any extra wages for overtime as a result of this lawsuit.

REASONING AND CONCLUSIONS OF LAW:

A claimant's monetary eligibility shall be based on insured work **paid** during the highest quarter of the claimant's base period. Iowa Code § 96.4(3). Emphasis supplied. Even though the claimant earned \$480 from December 26 through 30, 2011, the employer did not pay him these wages until January 5, 2012. Therefore, the \$480 paid in January 5, 2012 cannot be added to the claimant's fourth quarter of 2011 wages.

The claimant is involved in a class action lawsuit against the employer for unpaid overtime. This matter has not been resolved. It is not known what, if any, money the claimant may receive as a result of this lawsuit. The claimant testified a Workforce representative has already told him to provide this additional information when this matter has been resolved. The claimant does not know what amount, if any, he may receive as a result of this lawsuit. The evidence does not establish what additional wages, if any, as a result of overtime can be added to the claimant's wages for the fourth quarter of 2011 at this time.

DECISION:

The representative's March 14, 2012 determination (reference 12) is affirmed. The employer properly reported the \$480 the claimant earned the last week of December 2011 in the fourth quarter of 2011 because the employer paid these wages to the claimant on January 5, 2012. Based on the available information at this time, the claimant's request to have additional wages added to the fourth quarter of 2011 is denied.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw