

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOSEPH P TAYLOR
Claimant

APPEAL NO. 09O-UI-05187-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC
Employer

OC: 12/23/08
Claimant: Appellant (1)

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

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated December 23, 2008, reference 01, that concluded the claimant was not entitled to substitute wages prior to the receipt of workers' compensation to establish his monetary eligibility for unemployment insurance benefits. A telephone hearing was held on April 22, 2009. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

ISSUE:

Is the claimant entitled to substitute wages prior to the receipt of workers' compensation to establish his eligibility for unemployment insurance benefits?

FINDINGS OF FACT:

The claimant worked for the employer from March 1, 2008, through June 27, 2008. Afterward the claimant was off work receiving temporary total disability (TTD) benefits starting July 1, 2008, due to a work-related injury. The claimant stopped receiving TTD on November 5, 2008.

The claimant filed a new claim for unemployment insurance benefits with an effective date of December 23, 2008. His regular base period for determining his qualification for benefits was from July 1, 2007, through June 30, 2008. During that period the claimant had no wages during the 3rd and 4th quarters 2007, wages of \$264.00 in the first quarter 2008, and wages of \$4,440.00 during the second quarter of 2008.

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.

The claimant does not qualify to have wage credits from before his regular base period used to determine his qualification for unemployment insurance benefits since he did not receive TTD during any calendar quarters of his regular base period. The reason the claimant does not have enough wage credits to qualify for unemployment has nothing to do with his workers' compensation claim; instead, it is because he simply has not earned enough wages in covered employment.

DECISION:

The unemployment insurance decision dated December 23, 2008, reference 01, is affirmed. The claimant is not entitled to substitute calendar quarters prior to the regular base period.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs