

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATTHEW J RECKER
Claimant

APPEAL NO. 11A-UI-07493-LT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01/03/10
Claimant: Appellant (1)

Iowa Code § 96.19(20) - Exhaustee
PL – 110-252, Title IV

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the May 24, 2011 (reference 06) decision that denied the claim for emergency unemployment compensation (EUC) benefits. After due notice was issued, a telephone conference hearing was held on June 21, 2011. Claimant participated.

ISSUE:

The issue is whether claimant is eligible for EUC benefits.

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: The claimant filed an original unemployment insurance (UI) claim effective January 3, 2010. He has had regular employment with Master Plumbing, Inc. (196651) since the second quarter of 2009, with the exception of four separate weeks to attend mandatory training for his job as a journeyman plumber and some weeks of partial employment due to slow work periods. The claimant had not exhausted his entitlement to UI benefits and was eligible for a new claim year. Claimant's weekly benefit amount (WBA) is \$273.00, but he was paid a EUC WBA of \$423.00 for the one week ending January 8, 2011 and partial EUC benefits of \$234.00 for the one week ending January 15, 2011. He was entitled to and was paid UI benefits of \$273.00 for the one week ending January 8, 2011 and was not entitled to partial UI benefits the week ending January 15, 2011, because the amount of wages for the week made him ineligible. Thus, claimant received \$657.00 of EUC benefits to which he was not entitled for the two weeks ending January 15, 2011. \$546.00 of that overpayment has been recovered by benefit offset during the two weeks ending June 4, 2011, which leaves an outstanding overpayment of \$111.00.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not eligible for EUC benefits.

Iowa Code § 96.19(20) provides:

(20) "*Exhaustee*" means an individual who, with respect to any week of unemployment in the individual's eligibility period has received, prior to such week, all of the regular benefits that were available to the individual under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and former armed forces personnel under 5 U.S.C. ch. 85) in the individual's current benefit year that includes such weeks. Provided that for the purposes of this subsection an individual shall be deemed to have received all of the regular benefits that were available to the individual, although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in the individual's benefit year the individual may subsequently be determined to be entitled to add regular benefits, or:

a. The individual's benefit year having expired prior to such week, has no, or insufficient, wages and on the basis of which the individual could establish a new benefit year that would include such week, and

b. The individual has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations issued by the United States secretary of labor, and the individual has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada, but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law the individual is considered an exhaustee.

Since claimant is eligible for and has an active claim for regular benefits based upon his employment with Master Plumbing, Inc., he is not eligible for EUC benefits in Iowa.

DECISION:

The May 24, 2011 (reference 06) decision is affirmed. The claimant is not eligible for EUC benefits.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/kjw