

IOWA DEPARTMENT OF INSPECTIONS AND APPEALS  
DIVISION OF ADMINISTRATIVE HEARINGS  
Lucas State Office Building  
Des Moines, Iowa 50319

**Appeal Number:** 06-IWDUI-228  
**OC:** 09/24/06  
**Claimant:** Appellant (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

DECISION OF THE ADMINISTRATIVE LAW JUDGE

**RANDY W HEADID**  
**3130 NEBRASKA STREET**  
**SIOUX CITY IA 51104-3938**

**BROWN COMMERCIAL CONSTRUCTION**  
**CHIRS WOLF CONTROLLER**  
**PO BOX 1280**  
**NORTH SIOUX CITY SD 57049**

**IOWA WORKFORCE DEVELOPMENT**  
**AMIE LOVRIEN FIELD AUDITOR**  
**2508 FOURTH STREET**  
**SIOUX CITY IA 51101**

DAN ANDERSON, IWD  
PKAREN PFAB, IWD

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to the Department . If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

December 29, 2006

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(Decision Dated & Mailed)

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Section 96.19-18b(1) – Localization of Employment

#### STATEMENT OF THE CASE:

The claimant filed an appeal from an Iowa Workforce Development decision dated November 28, 2006, reference 01, which denied the claimant's request to have wages added to his unemployment insurance claim.

After due notice was issued, a hearing was scheduled for a telephone conference call December 27, 2006. The claimant, participated. Chris Wolf, Controller, participated for Brown Commercial Construction. Amie Lovrien, Field Auditor of the tax bureau, participated for Iowa Workforce Development.

#### FINDINGS OF FACT:

The administrative law judge having heard the testimony of the witnesses, and having examined all of the evidence in the record, finds: The claimant filed a claim for unemployment benefits effective September 24, 2006. The department had no record of any taxable wages paid to the claimant by an Iowa employer. The claimant submitted a request to have the wages he earned from Brown Commercial Construction be added to his claim for the period of his employment from October 25, 2004 to September 21, 2006.

The department assigned Auditor Lovrien to review the claimant omitted wage request. Lovrien contacted Brown Commercial. Controller Wolf advised that the claimant was a multi-state worker for the business who had its base of operations in South Dakota. The employer business records showed that the claimant worked in Iowa, South Dakota and Nebraska. The employer reported all of the claimant's taxable wages to South Dakota.

Lovrien reviewed a work list provided by the claimant that confirmed he performed most of his work in Iowa, but that he also did perform some work in South Dakota and Nebraska. As a multi-state worker with a base of operations in South Dakota, Lovrien applied the department rule that confirmed Brown Commercial correctly reported all of the claimant's taxable wages to South Dakota.

During the hearing, the claimant was advised that he could pursue an unemployment claim in the state of South Dakota.

#### REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant's request to have wages added to his claim should be approved.

#### **Iowa Code Section 96.19-18 "*Employment*" provides:**

- b. The term employment shall include an individual's entire service, performed within or both within and without this state, if:
  - (1) The service is localized in this state, or
  - (2) The service is not localized in this state but some of the service is performed in this state and (i) the base of operations, ...

The administrative law judge concludes that the claimant's request to have wages he earned with Brown Commercial Construction is denied pursuant to 871 IAC 23.24 and Iowa Code section 96.19-18b. Since the claimant performed some work in three states even though most of it was performed in Iowa, as a multi-state worker the base of operations is determinative of the state where his taxable wages are reported, which is his employer home office in South Dakota.

#### DECISION:

The decision of the representative dated November 28, 2006, reference 041, is AFFIRMED. The claimant's request to have the wages he earned with Brown Commercial Construction be added to his unemployment claim is denied.

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