

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

KELLY C WISE
Claimant

APPEAL NO. 11A-UI-16323-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 11-27-11
Claimant: Appellant (4)**

Iowa Code § 96.3(4) – Determination of Benefits
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the monetary determination made on December 8, 2011, that found her not eligible for unemployment insurance benefits because she did not have sufficient wages reported for her from any employer. After due notice was issued, a hearing was held on January 25, 2012 and the record held open until February 6, 2012 for the claimant to submit additional documents. The claimant did participate and was represented by Michael Tullis, Attorney at Law. Claimant's Exhibits A, B and C were entered and received into the record.

ISSUE:

Has the claimant earned sufficient insured wages in Iowa in order to be eligible for unemployment insurance benefits and whether she filed a timely appeal of her monetary determination?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant lives in Council Bluffs, Iowa but has worked in the state of Nebraska. When she filed both of her claims for benefits dated November 27, 2011 and subsequently on March 25, 2012 she did indicate to the agency that she had worked and earned wages in another state so that the agency could consider her claim a combined wage claim (CWC) and contact other states to have wages transferred to Iowa to see if she would be eligible for unemployment benefits in Iowa. The claimant has earned wages from employer 1889 Salon for work performed in Nebraska from August 13, 2011 through December 1, 2011. She has also worked for the Hilton Hotel chain in Nebraska from May 2010 through June 2011. The claimant has not worked in Iowa or earned any wages from any Iowa employer in the base period of either of her claim years. Without earning wages in at least one quarter of her base period, she is not eligible for unemployment insurance benefits in Iowa on either a regular claim or a CWC.

The claimant's appeal from her monetary record was timely as she was given conflicting advice from her local office about how to proceed with her claim for Iowa benefits.

The claimant filed a claim for benefits from the state of Nebraska effective April 29, 2012.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the Administrative Law Judge concludes the claimant's appeal of her monetary record was timely.

Iowa Code section 96.6-2 provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant was given conflicting advice on how to appeal or deal with her claim, under such circumstances that Administrative Law Judge concludes that claimant's appeal was timely.

For the reasons that follow, the administrative law judge concludes the claimant does not have sufficient wages in the base period for benefit eligibility in the state of Iowa.

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.

Under Iowa Code section 96.20 there is an interstate reciprocal benefit plan that provides for employee who resides in one state but work in another may file claims for benefits in Iowa. Under that code section an employee must earn at least some wages in one quarter of their base period in Iowa order to be eligible for a combined wage claim in Iowa.

Since the claimant has earned no wages at all in Iowa during any quarter of her base period, she is not eligible for a CWC in Iowa nor for a regular claim in Iowa and must file her claim for unemployment insurance benefits in Nebraska.

DECISION:

The December 8, 2011 monetary redetermination is affirmed. The claimant is not eligible for unemployment insurance benefits in Iowa.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs