

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BENJAMIN DRAPER
Claimant

APPEAL NO: 11A-UI-01862-ET

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 01-23-11
Claimant: Appellant (1)

871 IAC 24.9(1)b - Timeliness of Challenge to Monetary Determinations

STATEMENT OF THE CASE:

The claimant appealed a monetary decision mailed February 10, 2011, which held that he was ineligible for unemployment insurance benefits due to a lack of qualified earnings. After a hearing notice was mailed to the party's last-known address of record, a telephone hearing was held on March 12, 2011. The claimant participated in the hearing. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant filed a timely appeal to a monetary decision, and if so, whether the monetary decision is accurate.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant filed an original claim for job insurance benefits effective January 23, 2011. His base period constitutes the fourth quarter of 2009 and the first, second and third quarters of 2010. On February 10, 2011, the claimant was mailed an initial determination which advised him of his weekly and maximum benefits amounts. The claimant's weekly benefit amount is \$236.00 and his maximum benefit amount is \$2,765.15. His benefits are based on \$4,262.00 in wage credits he earned from Lake Manawa Nissan in the third quarter of 2010.

The claimant's base period does not include the \$1,793.00 he earned in wage credits for the fourth quarter of 2010 because this is the lag quarter.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be determined is whether the claimant's appeal from the monetary decision is timely. A provision of the Iowa Administrative Code, 871 IAC 24.9(1)b, provides that monetary determinations become final ten days after issuance in the absence of newly discovered facts.

Workforce Development rule 871 IAC 24.9(1)(a) and (b) provide as follows:

Determination of benefit rights.

24.9(1) Monetary determinations.

a. When an initial claim for benefits is filed, the department shall mail to the individual claiming benefits a Form 65–5318, Iowa Monetary Record, which is a statement of the individual's weekly benefit amount, total benefits, base period wages, and other data pertinent to the individual's benefit rights.

b. The monetary record shall constitute a final decision unless newly discovered facts which affect the validity of the original determination or a written request for reconsideration is filed by the individual within ten days of the date of the mailing of the monetary record specifying the grounds of objection to the monetary record.

The claimant submitted an appeal to his monetary determination within the ten-day period and his appeal is therefore timely. The next issue to be determined is whether the monetary decision is accurate. The claimant believes the fourth quarter of 2010 should be included when calculating the weekly and maximum benefit amount of his eligibility for benefits. A person's base period consists of the first four of the last five quarters prior to the quarter in which the claim is filed and the claimant's base period does not include the fourth quarter of 2010.

Although Iowa Code § 96.4-4-b does provide an alternate base period for an individual who does not have sufficient wages in his base period to qualify for benefits. The alternate base period then becomes the last four completed calendar quarters immediately preceding the first day of the individual's benefit year. However, this code section is not applicable in the case herein because the claimant is monetarily eligible using the standard oldest four completed quarters of the most recent five quarters, prior to the quarter when the claim was filed. Consequently, the claimant's monetary determination is accurate.

DECISION:

The claimant filed a timely appeal to the monetary determination issued February 10, 2011, and the monetary determination is accurate. The claimant cannot use his lag quarter for a higher determination of benefits.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/pjs