

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

DAVID M WEBER

Claimant

HEARING NUMBER: 20BUI-00745

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A REHEARING REQUEST shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.3-7

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

Iowa Code §96.3(3) sets out how to determine how much to offset wages from benefits for weeks during which a claimant receives less than full wages and thus claims for "partial unemployment." That Code section states that such a worker "shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount." Iowa Code §96.3(2); accord 871 IAC 24.52(8) ("Deductions from unemployment insurance payments are on a 'when earned' basis rather than on a 'when paid' basis."); Hartmann v. IWD, 10IWDUI-061 <http://uidecisions.iowaworkforcedevelopment.gov/solr/ui-decisions/browse?q=10-IWDUI-061&fq=monthYear%3A%22May+2010>.

This "when earned" is used for offset purposes is in part because how the math would work out. Again, partial benefits are payable if wages are less than the weekly benefit amount (WBA) plus \$15. In such a case, Partial Benefits Paid = WBA - (Wages - ¼ WBA). So look at two claimants working reduced schedules and each now

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earning \$100 per week, with a \$100 WBA. What happens if we used a “when paid” for benefit offsets? Claimant A gets paid weekly. Each week he gets \$25 in benefits since $100 - (100 - 25) = 100 - 75 = \25 . Over two weeks Claimant A gets \$50 in benefits. But Claimant B gets paid bi-weekly and gets no benefits on the week he gets paid the bi-weekly \$200 since this is greater than his WBA plus \$15. But Claimant B gets the full \$100 in the first week of the pay period since, using “when paid,” his wage that week would be zero. Over two weeks Claimant B gets \$100. So Claimant B gets to double the benefit because he is paid bi-weekly rather than weekly. Offsetting benefits on a “when paid” basis creates clear inequities based on the pay schedule. Thus benefits offset uses “when earned” while, as discussed above, monetary determinations use “when paid.” Compare 871 IAC 24.52(8) [offset is “when earned”] with 871 IAC 23.2(2)[monetary eligibility is “when paid”].

Ashley R. Koopmans

James M. Strohman

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RRA/fnv