

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTOPHER D WHITE
Claimant

APPEAL NO. 08A-UI-05428-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 05/18/08 R: 01
Claimant: Appellant (1-R)

Iowa Code Section 96.4(4) – Minimum Earnings Requirement

STATEMENT OF THE CASE:

Christopher D. White filed a timely appeal from the May 30, 2008, reference 02, decision that he was not eligible to receive unemployment insurance benefits because he did not meet the minimum earnings requirements. After due notice was issued, a hearing was held on June 23, 2008. Mr. White participated. The administrative law judge took official notice of the Agency's administrative record of the claimant's insured wages reported by employer to Workforce Development and received Exhibit A into evidence.

ISSUE:

Whether the claimant has met the minimum earnings requirements to be eligible for unemployment insurance benefits.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Christopher White established a claim for unemployment benefits that was effective May 20, 2007 in connection with a May 22, 2007 separation from employment with Continuum Health Care Services. Mr. White received unemployment insurance benefits totaling \$7,368.79 during the benefit year that started May 20, 2007 and ended May 18, 2008.

In March 2008, Mr. White commenced part-time employment at Amped Up Café in Sutherland, Iowa. Mr. White's wage was \$6.00 per hour. Amped Up Café is owned and operated by Mellisa Hale, whom Mr. White describes as a good friend. Mr. White operates his own restaurant with his girlfriend and works 50 hours per week in the self-employment restaurant venture. Mr. White has submitted as evidence a check written to Mr. White on Ms. Hale's business account. The check is dated June 3, 2008 and is written for \$182.04. In the memo portion of the check, Ms. Hale had indicated that the check represents payment for 41 hours' work and is based on gross pay of \$246.00 and payroll deductions totaling \$63.96. Mr. White left Ms. Hale's employ in May 2008. Mr. White asserts that Ms. Hale owes him money for 13 additional hours of work.

REASONING AND CONCLUSIONS OF LAW:

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.

The greater weight of the evidence indicates that Mr. White has not met the minimum earnings requirements to be eligible for unemployment insurance benefits. The evidence indicates that Mr. White drew benefits during the benefit year that ran May 20, 2007 through May 18, 2008. The evidence indicates that Mr. White has not been paid wages for insured work totaling at least two hundred dollars during the benefit year that ran May 20, 2007 through May 18, 2008 or during the benefit year that started May 18, 2008.

The evidence in the record calls into question whether Mr. White meets the work availability requirements of Iowa Code section 96.4(3). Mr. White testified that he works 54 hours per week in a self-employment restaurant venture. This matter will be remanded to the Claims Division for investigation and determination of Mr. White's availability since he established the claim for benefits that was effective May 18, 2008.

DECISION:

The Agency representative's May 30, 2008, reference 02, decision is affirmed. The claimant has not met the minimum earnings requirements to be eligible for unemployment insurance benefits.

This matter is remanded to the Claims Division for investigation and determination of Mr. White's availability since he established the claim for benefits that was effective May 18, 2008, in light of Mr. White's self-employment.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/pjs