

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES C AVENSON
Claimant

APPEAL NO. 09A-UI-05083-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/14/08
Claimant: Appellant (1)

Section 96.4-4 – Second Benefit Year Earnings Requirement
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

James C. Avenson filed an appeal from an unemployment insurance decision dated March 17, 2009, reference 03, that denied unemployment insurance benefits to him effective December 14, 2008 upon a finding that he had not earned and been paid insured wages of at least \$250.00 since the beginning of his previous benefit year December 16, 2007. After due notice was issued, a telephone hearing was held April 27, 2009 with Mr. Avenson participating.

ISSUES:

Has the claimant filed a timely appeal?

Is the claimant eligible for TRA benefits?

FINDINGS OF FACT:

Having heard the testimony of the witness and having examined all of the evidence in the record, the administrative law judge finds: James C. Avenson filed is present appeal on March 30, 2009. The decision from which he has appealed states that it would become final unless an appeal was postmarked by March 27, 2009 or received by the Agency by that date.

Mr. Avenson is monetarily eligible for unemployment insurance benefits effective December 14, 2008 but has not met the second benefit year earnings requirement of earning and being paid insured wages of at least \$250.00 since the beginning of the last benefit year in which he had received benefits from the Agency.

REASONING AND CONCLUSIONS OF LAW:

The question raised by Mr. Avenson is whether he should be receiving benefits because of an earlier TRA allowance. TRA benefits are available to unemployed individuals under some circumstances. The federal law that has created the TRA program, however, states that TRA benefits are available only to those who have exhausted all other state and federal benefits.

The evidence in the record establishes that Mr. Avenson is monetarily eligible for state unemployment insurance benefits effective December 14, 2008. They are presently denied to him because of the provision in Iowa Code section 96.4-4 that allows benefits in a second benefit year only if the individual has demonstrated continued attachment to the workforce by earning and being paid insured wages of at least \$250.00 since the beginning of the previous benefit year in which benefits were paid. Since Mr. Avenson does not have such earnings, benefits cannot be paid to him on his December 2008 claim. As soon as he meets the requirement, he can receive benefits on that claim, provided he is otherwise eligible, and if those benefits are exhausted, may then receive benefits through the various federal programs.

While the administrative law judge concludes that Mr. Avenson's appeal is untimely, he may still requalify for benefits by meeting the second benefit year earnings requirement of Iowa Code section 96.4-4.

DECISION:

The unemployment insurance decision dated March 17, 2009, reference 03, is affirmed. Benefits are withheld because the claimant has not met the second benefit year earnings requirement.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

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