

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

DONISE R CANNADAY

Claimant,

and

IOWA WORKFORCE DEVELOPMENT

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HEARING NUMBER: 09B-UI-14662

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: 96.4-4

DECISION

UNEMPLOYMENT BENEFITS ARE ALLOWED IF OTHERWISE ELIGIBLE

The Claimant submitted new and additional evidence, which the Board accepted as it was both material and relevant to the issue to be determined. The Board allowed the other party an opportunity to respond and is now ready to issue a decision in consideration of the same.

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 it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

The administrative law judge's Findings of Fact are adopted by the Board as its own with the following modifications and additions:

The Claimant worked for and earned wages from the Employer from September 1, 2008 through September 4, 2008. During this period the Claimant earned, in regular wages, \$1,173.58.

REASONING AND CONCLUSIONS OF LAW:

This case involves the unusual interplay of two provisions.

First, is the \$250 minimum earnings requirement in Iowa Code §96.4(4):

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds:

....

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 rules of Workforce expound on this and explain “[v]acation pay, severance pay and bonuses are not considered as wages for second benefit year requalification purposes.” 871 IAC 24.31(2).

So, clearly, a Claimant must earn \$250 in insured wages during or subsequent to any benefit year in which she has drawn benefits.

The second provision deals with how to determine the start of the Claimant’s benefit year. “The term ‘benefit year’ means a period of one year beginning with the day with respect to which an individual filed a valid claim for benefits.” Iowa Code §96.19(3). The regulations – and here’s the twist in this case – specify that “[t]he starting date of the benefit year is always on Sunday and is usually the Sunday of the current week in which the claimant first files a valid claim.” 871 IAC 24.1(21).

Putting this together, the Claimant must have earned \$250 in insured wages in her first benefit year in order to be eligible to draw in a subsequent benefit year. Notably, the Claimant must earn this amount since establishing the benefit year, not since leaving the Employer. Here, the Claimant’s benefit year starts on Sunday, August 31, 2008. She worked four days after this for the Employer. Obviously what happened is that the Claimant filed for benefits as soon as she was separated and, as specified by the regulation, her benefit year was established as starting on the *previous* Sunday – that is, the Sunday *before she lost her job*.

The Claimant’s benefit year started August 31, 2008 she earned \$1,173.58 in regular wages following that date. She therefore satisfied the \$250 requirement of Iowa Code §96.4(4). By the book, the Claimant has proven she is eligible, and benefits are allowed.

DECISION:

The administrative law judge's decision dated October 14, 2009 is **REVERSED**. The Employment Appeal Board concludes that the Claimant has proven that she satisfied the earnings requirement of Iowa Code §96.4(4). Accordingly, the Claimant is allowed benefits provided she is otherwise eligible.

John A. Peno

Elizabeth L. Seiser

Monique F. Kuester

RRA/fnv