

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

TERRY J CHRZAN
Claimant

APPEAL NO. 11A-UI-16495-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HUMBOLDT RED POWER INC
Employer

OC: 10/09/11
Claimant: Appellant (4)

Section 96.19-18G(6) – Whether Services Were Employment

STATEMENT OF THE CASE:

Claimant filed a timely appeal from a representative's decision dated December 8, 2011, reference 01, which held claimant not eligible to use wages on his claim which were from Humboldt Red Power, Inc. on a program in which the claimant received academic instruction and work experience denying benefits based upon wages earned from July 1, 2010 until April 8, 2011. After due notice, a telephone hearing was held on January 26, 2012. Claimant participated. The employer participated by Mr. Rob Hinton, Manager; Mr. David Plahn, Former Facility Manager, and Mr. Mike Ubben, Shop Manager.

ISSUE:

The issue is whether services performed by the claimant were excluded from employment within the meaning of the Employment Security Law.

FINDINGS OF FACT:

Having considered all of the evidence in the record, the administrative law judge finds: Terry Chrzan was employed by Humboldt Red Power, Inc. from July 1, 2010 until December 31, 2010 under an intern program with Central Iowa Community College. During that specified period of time, Mr. Chrzan received academic credit and received training on-the-job by Humboldt Red Power, Inc.

At the end of December 2010, Mr. Chrzan presented an evaluation packet to his immediate supervisor, Mr. Ubben, for the shop manager to complete and return to Central Iowa Community College so that the claimant could receive credit for the 240 hours of internship at Humboldt Red Power, Inc. Because there was other work still available unrelated to the internship program, Mr. Chrzan was retained as a part-time employee until April 8, 2011 when his part-time employment with Humboldt Red Power, Inc. came to an end.

Mr. Chrzan agrees that he was ineligible to use wages earned with Humboldt Red Power, Inc. from the beginning of his internship until December 31, 2010 because he was performing services as a student enrolled in an educational institution combining academic instruction with

their work experience. It is the claimant's further position, however, that he was retained as a part-time employee by the company unrelated to any internship or on-the-job training program after December 31, 2010 and that earnings and wage credits thereafter from Humboldt Red Power, Inc. should be considered as earnings for the purposes of establishing an unemployment insurance claim.

REASONING AND CONCLUSIONS OF LAW:

The question before the administrative law judge is whether the evidence in the record establishes that earnings and wage credits earned by Terry Chrzan from Humboldt Red Power, Inc. after December 31, 2010 until April 8, 2011 should be excluded from employment within the meaning of the Employment Security Law. They should not.

Section 96.19-18G(6) of the Iowa Employment Security Law provides that services performed by a student enrolled in an educational institution combining academic instruction with work experience is excluded from the term employment.

The evidence in the record establishes that Mr. Chrzan's services performed with Humboldt Red Power, Inc. until December 31, 2010 meet the definition of excluded employment in Section 96.19-18G(6) and cannot be used as wages to establish credits to establish an unemployment insurance claim.

The evidence in the record establishes that the claimant's intern/on-the-job training program with Central Iowa Community College and the academic credits associated with the training concluded at the end of the semester and the accumulation of 240 credit hours on December 31, 2010. At that time the employer elected to continue employing Mr. Chrzan as a part-time employee unrelated to his academic pursuits and internship and on-the-job training.

The matter is remanded to UIS Division for an investigation and determination as to whether the claimant has sufficient wage credits in his base period to establish an unemployment insurance claim.

DECISION:

The representative's decision dated December 8, 2011, reference 01, is affirmed as modified. The portion of the determination excluding wages earned beginning July 1, 2010 from Humboldt Red Power, Inc. is affirmed. The determination is modified to exclude wages earned from July 1, 2010 until December 31, 2010. The issue of whether wages earned from Humboldt Red Power, Inc. can be used to establish an unemployment insurance claim is remanded to the UIS Division for investigation and the issuance of an appealable determination.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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