

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARRY FRAZIER
Claimant

APPEAL NO. 07A-UI-03452-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 03/18/07 R: 04
Claimant: Appellant (2)**

Section 96.4-4 - Second Benefit Year Qualification

STATEMENT OF THE CASE:

Larry Frazier (claimant) appealed an unemployment insurance decision dated March 28, 2007, reference 01, that concluded the claimant was not eligible to receive unemployment insurance benefits for a second benefit year because the claimant had not been paid insured wages of at least \$250.00. After a hearing notice was mailed to the party's last-known address of record, a telephone hearing was held on April 19, 2007. The claimant participated in the hearing. Claimant's Exhibit A was admitted into evidence. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant is eligible to receive unemployment insurance benefits for a second benefit year?

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds that: The claimant established a claim for benefits in a prior benefit year beginning March 19, 2006 and received benefits. A new benefit year began on March 18, 2007, and the claimant filed a new claim for benefits at that time. On March 28, 2007, a decision was entered which denied benefits effective March 18, 2007 and concluded that the claimant had not been paid insured wages of at least \$250.00 either during or after the previous benefit year in which the claimant received benefits. The claimant provided documentary evidence indicating he had earned \$439.88 in insured wages for pay period ending March 30, 2006.

REASONING AND CONCLUSIONS OF LAW:

If an individual has qualifying wages for the establishment of a second benefit year, as specified in Iowa Code § 96.4(4), which were earned prior to the filing of the previous claim, the claimant must, either during or subsequent to that year, have been paid wages of insured work totaling at least \$250.00 to be eligible for benefits on a new claim. Vacation pay, severance pay and

bonuses are not considered wages for second benefit year qualification purposes. See 871 IAC 24.31. "Insured work" is employment, as defined in state employment security law, performed for a subject employer, or federal employment as defined in the Social Security Act. 871 IAC 24.1(62).

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 evidence shows that at least \$250.00 in insured wages was earned and paid to the claimant after he established his initial claim year effective March 19, 2006, and the claimant is eligible for benefits in his subsequent benefit year beginning March 18, 2007

DECISION:

The unemployment insurance decision dated March 28, 2007, reference 01, is reversed. The claimant is entitled to receive unemployment insurance benefits during the claim year beginning March 18, 2007, provided he meets all other eligibility requirements.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/kjw