

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JAMES L CLARK
519 E 7TH ST
DAVENPORT IA 52803 5705**

**HEADWAY ASSETS LLC
JACOB LIPP
7447 213TH ST N
FOREST LAKE MN 55025**

APPEAL 21A-UI-19204-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

APPEAL RIGHTS:

This Decision Shall Become Final, unless within fifteen (15) days from the mailing date below the administrative law judge's signature on the last page of the decision, you or any interested party:

Appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to:

***Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191***

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

ONLINE RESOURCES:

UI law and administrative rules:

<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-law-and-administrative-rules>

UI Benefits Handbook:

<https://www.iowaworkforcedevelopment.gov/unemployment-insurance-claimant-handbook>

Employer UI Handbook: <https://www.iowaworkforcedevelopment.gov/employer-handbook>

Report UI fraud: <https://www.iowaworkforcedevelopment.gov/report-fraud>

Employer account access and information: <https://www.myiowaui.org/UITIPTaxWeb/>

National Career Readiness Certificate and Skilled Iowa Initiative: <http://skillediowa.org/>

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMES L CLARK
Claimant

HEADWAY ASSETS LLC
Employer

APPEAL 21A-UI-19204-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 08/08/21
Claimant: Appellant (1R)**

Iowa Code § 96.3(4) – Determination of Benefit

STATEMENT OF THE CASE:

The claimant, James L. Clark, filed an appeal from the August 25, 2021, (reference 01) unemployment insurance decision that denied claimant's request to add wages from employment with the employer, Headway Assets, LLC, because the employer classified claimant as an independent contractor. After due notice issued, a telephone hearing was held on October 21, 2021. The claimant participated personally, with witness Brandon Young, who did not testify. The employer's hearing notice was returned as undeliverable prior to the hearing; it did not participate. The administrative law judge took official notice of the administrative record.

ISSUE:

Did claimant earn insured wages for purposes of his claim for unemployment insurance benefits?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The base period for the claim year effective August 8, 2021, covers the second, third, and fourth quarters of 2020, and the first quarter of 2021.

Claimant originally began working for the employer in 2018. He was off work for a period due to COVID-19, and began working again in October or November 2020. The employment ended in early August 2021. Claimant worked as a property and maintenance manager.

Claimant believes he should have been classified as an employee, rather than an independent contractor. This is because of a number of factors. Specifically, he asserts the employer exercised significant control and oversight over claimant's work. It issued him biweekly paychecks, and provided one week of paid time off per year. It also told him that it carried the insurance necessary for claimant to perform maintenance work. Though claimant was empowered to hire people, his supervisor, Josh Page, was the person who approved of claimant's hiring decisions. It did not provide benefits such as health insurance, and did not

withhold any amount from claimant's checks. It also did not issue tax documents to claimant every year. When it was asked to do so last year, it issued claimant a 1099.

Whether claimant is an independent contractor or employee has not been investigated by the Iowa Worker Misclassification Unit.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the monetary record is correct unless a misclassification investigation and determination reveals otherwise.

Iowa Code section 96.3(4) provides:

4. Determination of benefits. With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest; the director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

If the number of dependents is:	The weekly benefit amount shall equal the following fraction of high quarter wages:	Subject to the following Max percentage of statewide avg. weekly wage.
0	1/23	53%
1	1/22	55%
2	1/21	57%
3	1/20	60%
4 or more	1/19	65%

The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section "dependent" means dependent as defined in section 422.12, subsection 1, paragraph "c", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Nonworking spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

The income claimant received from Headway Assets, LLC was not classified as wages and the monetary record is correct. However, since there is a dispute about claimant's employment status with this business, the issue of whether claimant has been misclassified as an

independent contractor is remanded for resolution with notice to both parties. That misclassification decision may call for a monetary redetermination.

DECISION:

The August 25, 2021 (reference 01) unemployment insurance decision is affirmed pending a misclassification determination.

REMAND:

The misclassification issue delineated in the findings of fact is remanded to the Iowa Worker Misclassification Unit for investigation and determination of claimant's status with this business and, if an employment relationship is established, a redetermination of the monetary record.



Alexis D. Rowe
Administrative Law Judge

November 4, 2021
Decision Dated and Mailed

ar/kmj