

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

MONTE D WIDMER
2616 VINE AVE
AINSWORTH IA 52201

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 04A-UI-00295-B4T
OC: 10/05/03 R: 04
Claimant: Appellant (4)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, 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 the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

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.

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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4-4 – Whether the Claimant Worked and Earned at Least \$250.00 in Insured Wages Between Claim Years.

STATEMENT OF THE CASE:

Monte D. Widmer appealed from an unemployment insurance decision, that held, in effect, the claimant was not eligible to receive unemployment insurance benefits because he had not earned wages for insured work which would allow him to requalify for benefits during his second benefit year.

A telephone conference hearing was scheduled to be held on February 4, 2004 pursuant to due notice. Monte D. Widmer responded to the notice of hearing mailed to him by the Appeals Section by providing a telephone number where he could be contacted. A call placed to the number provided by the claimant was not answered. There was no hearing held in this matter.

FINDINGS OF FACT:

The administrative law judge, having examined the entire record in this matter, finds that: Monte D. Widmer filed an additional claim for benefits having an effective date of October 6, 2002 subsequently the claimant's weekly benefit amount was determined to be \$314.00 and maximum benefits were determined to be \$8,164.00.

Following the claimant's initial claim for benefits he received benefits in the amount of the maximum benefit allowable.

The claimant opened a new benefit year effective October 5, 2003. The claimant did not receive wages for insured work in the amount of \$250.00 until the benefit week commencing December 21, 2003. Following December 21, 2003, the claimant filed claims for benefits and has received benefits in the amount of \$322.00 per week for the five weeks ending January 24, 2004.

A decision of the representative bearing reference number 07 discloses that the claimant had requalified for benefits by earning \$250.00 in wages for insured work. In addition, an amended decision bearing reference number 08 also allowed benefits for the second year because the claimant had earned the required amount of wages for insured work.

REASONING AND CONCLUSIONS OF LAW:

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 in the record clearly establishes that the claimant has earned wages for insured work in excess of \$250.00 up to and including the benefit week ending December 20, 2003.

Unemployment insurance benefits are therefore allowed commencing December 21, 2003 provided the claimant is otherwise eligible under the provisions of the Iowa Employment Security Law.

The decision under consideration holding that the claimant was not eligible to receive unemployment insurance benefits bearing reference number 04 is reversed. Benefits are allowed provided the claimant is otherwise eligible under the provisions of the Iowa Employment Security Law following December 21, 2003.

DECISION:

The unemployment insurance decision dated January 2, 2004, reference 04 is modified. Monte D. Widmer is eligible to receive benefits for the second benefit year commencing December 21, 2003 provided he is otherwise eligible under the provisions of the Iowa Employment Security Law.

kjf/b