

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MITCHELL J WALDBUSSER
Claimant

APPEAL NO. 11A-EUCU-00301-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

JEFF REDMAN
Employer

OC: 09/26/10
Claimant: Appellant (1)

Section 96.3(4) – Substitution of Quarters

STATEMENT OF THE CASE:

The claimant, Mitchell Waldbusser, filed an appeal from a decision dated March 8, 2011, reference 01. The decision denied his request to have wages from April 1, 2009 to March 31, 2010, added to his base period. After due notice was issued, a hearing was held by telephone conference call on April 11, 2011. Neither the claimant nor the employer provided telephone numbers where they could be contacted and no hearing was held.

ISSUE:

The issue is whether the claimant may have wages added to his unemployment claim.

FINDINGS OF FACT:

Mitchell Waldbusser filed a claim for unemployment benefits with an effective date of September 26, 2010. He requested wages be added to his base period from Jeff Redman earned during the period April 1, 2009 through March 31, 2010.

The claimant provided copies of his income tax returns to the Appeals Section. Nothing in those documents establishes whether the amount reported constitutes insured wages, the period during which it was earned or from whom.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 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 maximum percentage of the statewide average 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.

Iowa Code § 96.3-5 provides:

5. Duration of benefits. The maximum total amount of benefits payable to an eligible individual during a benefit year shall not exceed the total of the wage credits accrued to the individual's account during the individual's base period, or twenty-six times the individual's weekly benefit amount, whichever is the lesser. The director shall maintain a separate account for each individual who earns wages in insured work. The director shall compute wage credits for each individual by crediting the individual's account with one-third of the wages for insured work paid to the individual during the individual's base period. However, the director shall recompute wage credits for an individual who is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, by crediting the individual's account with one-half, instead of one-third, of the wages for insured work paid to the individual during the individual's base period. Benefits paid to an eligible individual shall be charged against the base period wage credits in the individual's account which have not been previously charged, in the inverse chronological order as the wages on which the wage credits are based were paid. However if the state "off indicator" is in effect and if the individual is laid off due to the individual's employer going out of business at the factory, establishment, or other premises at which the individual was last employed, the maximum benefits payable shall be extended to thirty-nine times the individual's weekly benefit amount, but not to exceed the total of the wage credits accrued to the individual's account.

The claimant has not established whether he actually earned money from Jeff Redman, whether it was insured wages or the period during which it was earned. He has failed to meet his burden of proof with sufficient evidence. The request for wages to be added to his base period is denied.

DECISION:

The representative's decision of March 8, 2011, reference 01, is affirmed. Mitchell Waldbusser's request to have wages added to his base period is denied.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs