

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RICHARD C REED**  
Claimant

**APPEAL NO. 11A-UI-00243-DW**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/03/10**  
**Claimant: Appellant (4/R)**

Iowa Code § 96.3(7) – Recovery of Overpayment of Benefits  
Iowa Code § 96.4(4) – Monetary Eligibility

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's December 30, 2010 determination (reference 03) that held him overpaid \$3,527.00 in benefits he received January 3 through August 31, 2010. This overpayment was based on a December 22, 2010 monetary redetermination that held him ineligible to receive benefits as of January 3, 2010 because he lacked qualifying earnings. The claimant participated in the hearing. The claimant gave the administrative law judge permission to review the administrative record and to contact administrative officials if necessary. Based on the administrative record, the evidence, the arguments of the claimant, and the law, the administrative law judge concludes the claimant is monetarily eligible to receive regular unemployment insurance benefits as of January 3, 2010. The issue of overpayment will be remanded to the Claims Section.

**ISSUES:**

Has the claimant been overpaid \$3,527.00 in benefits he received for the weeks ending January 3 through August 21, 2010, because he was not monetarily eligible to receive benefits as of January 3?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of October 14, 2007. He filed for and received benefits for the weeks ending January 9 through February 20, 2010. The Department initially paid him Emergency Unemployment Compensation benefits for these weeks. On March 17, 2010, the Department issued a determination holding the claimant monetarily eligible to receive regular unemployment insurance benefits as of January 3, 2010, under the alternate base period law. In a May 11, 2010 determination, the Department held the claimant had been overpaid \$1,087.00 in Emergency Unemployment Compensation benefits he received for the weeks ending January 9 through February 20, 2010. The claimant understood the above determinations and did not appeal.

When the claimant's unemployment insurance file was reviewed in December 2010, a representative inadvertently omitted or did not consider the wages the claimant earned from KBS of Delaware in 2009. As a result of deleting or not considering both the third and fourth quarter wages from this employer, the claimant was not monetarily eligible to receive regular unemployment insurance benefits.

For a claim established during the week of January 3, 2010, the base period is October 1, 2008, through September 30, 2009. The claimant earned the following wages during this time.

EMPLOYER	2008/4	2009/1	2009/2	2009/3	2009/4
EXPRESS SERVICES INC	\$5853	\$1012	\$335		
DES STAFFING SERVICES	\$415				
STAFFING PROFESSIONALS	\$46				
KBS OF DELAWARE LLC				\$1549	\$2529

#### **REASONING AND CONCLUSIONS OF LAW:**

For a claimant to be monetarily eligible to receive benefits, he must be paid wages during his base paid period that is at least one and one-quarter times the wages paid to the claimant during the quarter of his highest wages. Iowa Code § 96.4(4).

The claimant's high quarter is the fourth quarter of 2008. The claimant earned a total of \$6,314.00 during this quarter. The total wages in his base period must equal \$7,892.50 before he is monetarily eligible to receive benefits. The total wages the claimant earned from October 31, 2008, through September 30, 2009 is \$9,210.00. The claimant is monetarily eligible to receive benefits under Iowa Code § 96.4(4), so the alternate base period law is not applicable.

Since the Department initially determined the claimant was monetarily eligible to receive regular unemployment insurance benefits under the alternate base period law, this matter will be remanded to the Claims Section to first determine the claimant's maximum weekly benefit amount and maximum benefit amount in conjunction with this decision. Since the claimant is monetarily eligible to receive regular unemployment insurance benefits as of January 3, he will not be overpaid \$3,527.00 in benefits. Because his weekly benefit amount may change based on this decision, the issue of overpayment or whether the claimant has been underpaid for benefits he received between January 3, 2010 and August 21, 2010 will also be Remanded to the Claims Section to determine.

#### **DECISION:**

The representative's December 30, 2010 determination (reference 03) is modified in the claimant's favor. The monetary determination that caused the overpayment determination to be issued was made in error when wages from KBS of Delaware were inadvertently omitted while reviewing the claimant's claim and his monetary eligibility. Based on the wages the claimant earned from KBS of Delaware in the third quarter of 2009, the claimant is monetarily eligible to receive regular unemployment insurance benefits as of January 3, 2010. The alternate base period does not apply to the claimant. Since the claimant is monetarily eligible to receive regular unemployment insurance benefits under Iowa Code § 96.4(4), this matter is **Remanded** to the Claims Section for two issues. First, determine the claimant's weekly benefit amount and maximum benefit amount based on the wages he earned October 1, 2008, through

September 30, 2009. Since the claimant is monetarily eligible to receive regular unemployment insurance benefits, he will not be overpaid \$3,527.00 for benefits he received January 3, through August 21, 2010. If the claimant's maximum weekly benefits changes, the Claims Section must determine if the claimant has been overpaid or underpaid any benefits.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw