

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JOHN J COLOMBO
Claimant

APPEAL NO. 10A-UI-03380-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Original Claim: 03/09/08
Claimant: Appellant (1)**

Section 96.19-20 – Federal Extension Benefits/Exhaustee

STATEMENT OF THE CASE:

The claimant appealed a department representatives decision dated February 22, 2010, reference 05, which amends 04, that held he was not eligible for extended (EUC/Federal) unemployment benefits effective March 9, 2008, because he is monetarily eligible for regular (state) benefits based on an alternate base period claim effective October 11, 2009. The claimant is not considered an "exhaustee," since he is eligible for regular benefits. The claimant participated.

ISSUE:

Whether the claimant is eligible for federal extension benefits (EUC).

FINDINGS OF FACT:

The claimant separated from employment at Casey's on October 8, 2009. The department issued a decision dated December 8, 2009, reference 03, that allowed the claimant benefits. Casey's paid the claimant insured wages of \$3,153.56 for the third quarter of 2009.

The claimant received extended (federal) benefits from October 11, 2009 for a period of 16 weeks ending January 30, 2010, totaling \$4,592 (16 x \$262/weekly benefit amount plus 16 x \$25). After the claimant received extended benefits, the department recognized he was eligible for regular (state) benefits effective October 11, 2009 by reason of using the alternate base period that included Casey's employment.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.19(20) provides:

(20) "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period has received, prior to such week, all of the regular benefits that were available to the individual under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and former armed forces personnel under 5 U.S.C. ch. 85) in the individual's current

benefit year that includes such weeks. Provided that for the purposes of this subsection an individual shall be deemed to have received all of the regular benefits that were available to the individual, although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in the individual's benefit year the individual may subsequently be determined to be entitled to add regular benefits, or:

a. The individual's benefit year having expired prior to such week, has no, or insufficient, wages and on the basis of which the individual could establish a new benefit year that would include such week, and

b. The individual has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations issued by the United States secretary of labor, and the individual has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada, but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law the individual is considered an exhaustee.

The administrative law judge concludes the claimant is not eligible for federal extension benefits (EUC) through the State of Iowa effective February 22, 2010, because he is not an exhaustee based on using the alternate base period that he is eligible for regular unemployment effective October 11, 2009.

In order for the claimant to be eligible for extended benefits, he must be an "exhaustee" as to eligibility for regular benefits. The claimant's separation from employment at Casey's for no disqualifiable reason on October 8, 2009, coupled with his qualifying wages for the third quarter/2009, made him eligible for regular benefits effective October 11 using the alternate base period.

DECISION:

The department representative's February 22, 2010 decision, reference 05, which amends 04, is affirmed. The claimant is not eligible to receive extended benefits effective October 11, 2009, because he is not an exhaustee.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

dlw/kjw