

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES D MCCLAIN
Claimant

APPEAL NO. 10A-UI-07094-HT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KINSETH HOTEL CORPORATION
Employer

OC: 01/24/10
Claimant: Appellant (1)

Section 96.4(4) – Qualified Earnings

STATEMENT OF THE CASE:

The claimant, James McClain, filed an appeal from a decision dated May 10, 2010, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on July 7, 2010. The claimant participated on his own behalf. The employer, Kinseth, participated by Bookkeeper Carmen Caffrey and was represented by Employer's Unity in the person of Jackie Nolan.

ISSUE:

The issue is whether the claimant has sufficient qualified earnings in his base period.

FINDINGS OF FACT:

James McClain was found disqualified as a result of his separation from Kinseth in an administrative law judge's decision dated April 30, 2010. Because the employment was part-time the case was remanded to UIS to determine whether the claimant has sufficient earnings in his base period after the removal of wages from Kinseth. The effective date of his claim is January 24, 2010, and his base period was October 1, 2008 through August 31, 2009. During that time he had earnings only in two quarters with Wood Sheet Metal, \$17,244.00 in the fourth quarter 2008 and \$1,180.00 in the first quarter 2009.

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 claimant's earnings from his other base period employers do not total one and one-quarter times the wages paid in the highest wage-earning quarter. Under the provisions of the above Administrative Code section, he lacks qualified earnings.

DECISION:

The representative's decision of May 10, 2010, reference 02, is affirmed. James McClain lacks qualified earnings in his base period after the removal of wages from Kinseth.

Bonny G. Hendricksmeier
Administrative Law Judge

Decision Dated and Mailed

bgh/pjs