

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MARGARET E NOLAND
Claimant

APPEAL NO. 17A-UI-06228-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 06/04/17
Claimant: Appellant (1)

Iowa Code Section 96.3(4) – Monetary Record
Iowa Code Section 96.4(4) – Minimum Earnings Requirement

STATEMENT OF THE CASE:

Margaret Noland filed a timely appeal from the Monetary Record that was mailed to her June 7, 2017. After due notice was issued, a hearing was held on July 3, 2017. Ms. Noland participated personally and was represented by Scott Stieger. Ms. Noland and Mr. Stieger each provided testimony. Exhibits A and B were received into evidence. The administrative law judge took official notice of the agency's administrative record of quarterly wages reported by employer Diamonds on the Avenue as wages paid to Ms. Noland. Ms. Noland waived formal notice on the issue of whether she met the minimum earnings requirement to be eligible for unemployment insurance benefits.

ISSUES:

Whether the monetary record mailed to Ms. Noland on June 7, 2017 correctly stated her base period wages.

Whether Ms. Edwards meets the minimum earnings requirement to eligible for unemployment insurance benefits during the claim year that started June 4, 2017.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Margaret Noland established an original claim for benefits that was effective June 4, 2017. Ms. Noland's base period for purposes of the claim consisted of the four calendar quarters of 2016. On June 7, 2017, Iowa Workforce Development mailed a "monetary record" to Ms. Noland. On June 15, 2017, Ms. Noland filed her appeal from the June 7, 2017 monetary record. The monetary record indicated that benefits could not be paid in the connection with the claim, due to insufficient wages reported for Ms. Noland's Social Security number for the period beginning January 1, 2016 and ending December 31, 2016. The monetary record reflected \$21,656.74 in wages paid to Ms. Noland by Diamonds on the Avenue, employer account number 355928, during the fourth quarter of 2016. Diamonds on the Avenue was Ms. Noland's sole base period employer. There were no other wages paid to Ms. Noland during the base period outside the wages paid during the fourth quarter of 2016.

Until recently, Ms. Noland owned and operated Diamonds on the Avenue, a private, for-profit S corporation that sold jewelry. The business closed effective January 14, 2017. Ms. Noland was President of the corporation and sole shareholder. The business employed other employees. During 2016, Ms. Noland, through her accountant, Nagovan & Stieger Consulting, only paid herself wages for the fourth quarter of 2016. Only during that quarter did the company have sufficient cash on hand to pay wages to Ms. Noland. The company paid wages to other employees on a weekly basis during all four quarters of 2016 and, through the accounting firm, filed quarterly wage reports with Iowa Workforce Development. The employer, through the accounting firm, had a pattern of only paying wages to Ms. Noland during the fourth quarter of the year. Prior to the fourth quarter of 2016, the employer had most recently paid wages to Ms. Noland during the fourth quarter of 2015, when the company paid her \$16,892.22.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3(4) governs the determination of a claimant's weekly benefit amount. Iowa Administrative Code rule 871-24.9 sets forth the process by which Workforce Development notifies a claimant of the weekly benefit amount, base period wages, and whether a claimant meets minimum monetary eligibility requirements to receive benefits on the claim. The rule provides as follows:

871—24.9(96) Determination of benefit rights.

24.9(1) *Monetary determinations.*

a. When an initial claim for benefits is filed, the department shall mail to the individual claiming benefits a Form 65-5318, Iowa Monetary Record, which is a statement of the individual's weekly benefit amount, total benefits, base period wages, and other data pertinent to the individual's benefit rights.

b. The monetary record shall constitute a final decision unless newly discovered facts which affect the validity of the original determination or a written request for reconsideration is filed by the individual within ten days of the date of the mailing of the monetary record specifying the grounds of objection to the monetary record.

c. If newly discovered facts are obtained by the department or a written request for reconsideration is filed by the individual and is timely, an unemployment insurance representative shall examine the facts or the written request for reconsideration and shall promptly issue a redetermination or transfer the written request to an administrative law judge. The redetermination of the monetary record shall constitute a final decision unless a written appeal to an administrative law judge is filed by the individual within ten days of the date of the mailing of the redetermination specifying the grounds of objection to the redetermined monetary record. For the purposes of this paragraph, if the newly discovered facts obtained by the department would result in a change of the individual's maximum benefit amount of \$25 or less, the department representative is not required to issue a redetermination unless a redetermination is requested by the individual, the employer, or a representative of another state or federal agency responsible for the administration of an unemployment insurance law.

d. For the purposes of this subrule, the appeal period is extended to the next working day of the department in the event that the tenth day falls on a Saturday, Sunday, or holiday. Also, failure of an individual to properly complete and sign any document relating to the adjudication of a claim shall result in the return of the document to the individual for proper completion or signature; however, an extension of the appeal period to allow for the return of the documents shall not be granted.

Ms. Noland filed a timely appeal from the June 7, 2017 monetary record. However, the monetary record mailed to Ms. Noland on June 7, 2017 was in all respects correct. The monetary correctly reflected that the employer, Diamonds on the Avenue, employer account number 355928, had only paid wages to Ms. Noland during the fourth quarter of 2016 and had paid no wages to Ms. Noland during any other quarter of the base period.

Ms. Noland's appeal is less about the accuracy of the monetary record and more about whether Ms. Noland meets the minimum earnings requirements to be eligible for unemployment insurance benefits. Those requirements are set forth at Iowa Code section 96.4(4) as follows:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

4. a. 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 paragraph 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.

b. For an individual who does not have sufficient wages in the base period, as defined in section 96.19, to otherwise qualify for benefits pursuant to this subsection, the individual's base period shall be the last four completed calendar quarters immediately preceding the first day of the individual's benefit year if such period qualifies the individual for benefits under this subsection.

(1) Wages that fall within the alternative base period established under this paragraph "b" are not available for qualifying benefits in any subsequent benefit year.

(2) Employers shall be charged in the manner provided in this chapter for benefits paid based upon quarters used in the alternative base period.

c. 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.

Under this law, Ms. Noland would need to have been paid wages for at least *two* base period quarters to be monetarily eligible for unemployment insurance benefits. In addition, because the wages paid to Ms. Noland for the fourth quarter of 2016 totaled \$21,656.74, Ms. Noland's total base period wages would have to be at least 1.25 that amount, or \$27,070.93, before she would meet the minimum earnings requirement. In other words, Ms. Noland would need to have been paid wages of at least \$5,414.19 during the first, second, and/or third calendar quarter of 2016. In the absence of such additional wages, Ms. Noland is not monetarily eligible for unemployment insurance benefits in connection with the claim that was effective June 4, 2017 using a traditional base period. In order to be monetarily eligible for benefits through use of an alternate base period, Ms. Noland would have needed to be paid at least \$5,414.19 in wages for insured work during the first quarter of 2017. However, Ms. Noland was not paid any wages for the first quarter of 2017. Ms. Noland is at once the claimant and the employer in this

matter. The weight of the evidence indicates that Ms. Noland and the accounting firm had the ability to budget for and issue payment to Ms. Noland over multiple base period calendar quarters, but elected instead to pay wages during only the fourth quarter of each year.

DECISION:

The Monetary Record mailed to the claimant on June 7, 2017 was correct. The claimant does not meet the minimum earnings requirement to be eligible for benefits in connection with the claim that was effective June 4, 2017.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/rvs