

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LINDA K KERR
Claimant

APPEAL 24A-UI-02540-PT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 02/18/24
Claimant: Appellant (2R)**

Iowa Code § 96.4(4) – Monetary Eligibility, Second Benefit Year

STATEMENT OF THE CASE:

The claimant, Linda Kerr, filed an appeal from the unemployment insurance decision dated February 29, 2024, (reference 01) that denied benefits because the claimant failed to earn at least eight times the prior claim year's weekly benefit amount in insured wages during or after the prior claim year. After due notice, a telephone hearing was held on March 21, 2024. The claimant participated personally. The Claimant's Exhibits A and B were admitted into evidence. The administrative law judge took official notice of the administrative record.

ISSUES:

Did the claimant earn insured wages of at least eight times the prior claim year's weekly benefit amount during or after the previous benefit year to become eligible for a second benefit year?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant's weekly benefit amount (WBA) in the prior claim year effective February 19, 2023, is \$474.00. She wishes to claim benefits during a second claim year effective February 18, 2024.

The claimant did earn at least eight times the prior claim year's WBA in insured wages during or subsequent to the prior claim year. The claimant credibly testified that she has worked for the same employer, Duro-Last Roofing Inc. (account number 273186-000), for the last 13 years. The employer temporarily laid the claimant off for three weeks in March 2023. The employer recalled the claimant to work in April 2023, and the claimant worked for the employer in the State of Iowa full-time earning \$22.25 per hour each week until December 31, 2023, when the employer laid the claimant off due to a lack of work.

Despite working full-time during all four quarters of 2023, the claimant's wages from this employment for the second and third quarters of 2023 are not reflected on DBRO or on the WAGE-A screen as of this time. It is not clear why the claimant's wages were not reported to IWD for the second and third quarters of 2023, but the claimant explained that the business was sold in the spring of 2023, and theorized that the business sale may have caused an accounting error. The claimant submitted into evidence two earnings statements from January 2024 to

corroborate that she is still employed with the employer and to show that the subsequent employer goes by the name Holcim Solutions and Products US LLC.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that the claimant is eligible to receive benefits during the subsequent benefit year.

Iowa Code section 96.4(4)(a) and (c) provide:

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.

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 eight times the individual's weekly benefit amount, as a condition to receive benefits in the next benefit year.

The claimant demonstrated an ongoing connection to the labor market by earning at least eight times the prior claim year's WBA in insured wages during or subsequent to the claim year beginning February 19, 2023. Therefore, the claimant is eligible to receive benefits during the current claim year beginning February 18, 2024.

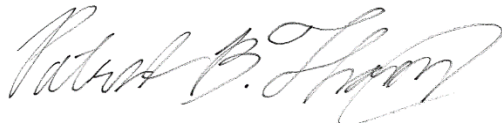
This matter will be remanded to the tax bureau for further investigation such that it may obtain claimant's other necessary wage information pertaining to her wages earned in the second and third quarters of 2023, while working for Duro-Last Roofing Inc. or Holcim Solutions and Products US LLC.

DECISION:

The February 29, 2024, (reference 01) unemployment insurance decision is reversed. The claimant is eligible to receive benefits during the current claim year beginning February 18, 2024.

REMAND:

The issue of unrecorded wages is remanded to the Tax Bureau of Iowa Workforce Development for investigation.



Patrick B. Thomas
Administrative Law Judge

March 26, 2024
Decision Dated and Mailed

pbt/scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. *There is no filing fee to file an appeal with the Employment Appeal Board.*

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may file a petition for judicial review in district court.

2. If you do not file an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at www.iowacourts.gov/efile. *There may be a filing fee to file the petition in District Court.*

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en www.iowacourts.gov/efile. *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.