

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEFF L FRANZEN
Claimant

APPEAL 17A-UI-09993-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09/17/17
Claimant: Appellant (1)**

Iowa Code § 96.4(4)a-c – Monetary Eligibility and Subsequent Benefit Year

STATEMENT OF THE CASE:

Claimant filed a timely appeal from the September 27, 2017, (reference 01) unemployment insurance decision that denied benefits because of a lack of at least eight times the prior claim year's WBA in insured wages during or after the prior claim year. After due notice was issued, a hearing was held on October 16, 2017. Claimant participated.

ISSUE:

Did the claimant earn insured wages of at least eight times the prior claim year's WBA 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 WBA in the prior claim year effective September 18, 2016, is \$447.00. He wishes to claim benefits during a second claim year effective September 17, 2017. The claimant received uninsured periodic pension payments but did not earn at least eight times the prior claim year's WBA in *insured wages* during or subsequent to the prior claim year beginning September 18, 2017.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant is not eligible to receive benefits during the subsequent benefit year.

Effective July 2, 2017, Iowa Code section 96.4(4)c provides:

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

4. 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.

(Emphasis supplied.)

Claimant argues his pension should count as wages since it was deducted as wages in 17A-UI-03753-DL. The Iowa legislature has determined that, although pension may be deducted from unemployment insurance benefits as though it were wages, pension amounts do not constitute insured wages for work performed as it is not taxable to the employer for that purpose. Only wages paid for insured (unemployment insurance taxable) work is counted towards establishing eligibility for a second benefit year. Although the administrative law judge (ALJ) recognizes claimant's frustration with having pension amounts deducted as though they were wages from unemployment insurance benefits in one year, yet not counting as wages earned towards establishing a second benefit year, the statutes and rules do treat them differently depending on whether they are insured or not.

Because the claimant did not demonstrate 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 September 18, 2016, he is not eligible to receive benefits during the current claim year beginning September 17, 2017.

DECISION:

The September 27, 2017, (reference 01) unemployment insurance decision is affirmed. The claimant is not eligible to receive benefits during the current claim year beginning September 17, 2017. If claimant does earn eight times the prior claim year's WBA in insured wages (\$3,576.00) or more, he may present evidence of that to IWD to determine eligibility.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/scn