

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**DEREK SMITH**  
Claimant

**APPEAL 20A-UI-04707-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 05/17/20**  
**Claimant: Appellant (2R)**

Iowa Code § 96.3(4) – Determination of Benefits  
Iowa Code § 96.4(4) – Monetary Eligibility

**STATEMENT OF THE CASE:**

On May 22, 2020, the claimant/appellant, Derek Smith, filed a timely appeal from the May 19, 2020 monetary determination that found he lacked sufficient earnings to receive regular Unemployment Insurance (UI) Benefits.

After proper notice, a telephone hearing was conducted on June 16, 2020. The claimant participated personally. The administrative law judge took official notice of the administrative records including Iowa Workforce Development's (IWD) records of claimant's wages for her base period and the employer's information on the MyIowaUI database. Department Exhibits D-1 and D-2 were also admitted.

The record was held open to allow the claimant to submit proof of earnings from Sapp Bros Inc. and 2020 earnings. The received documents were admitted as Claimant Exhibit A.

Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Is the monetary record dated May 19, 2020, correct?  
Is the claimant monetarily eligible for benefits effective May 17, 2020?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established the claim for unemployment insurance benefits with an effective date of May 17, 2020.

To determine whether a claimant is monetarily eligible for unemployment insurance benefits, wages earned during the based period are reviewed. The base period for the claim year covers the first, second, third and fourth quarters of 2019. The monetary record reflects his wages earned Tometich Inc. but does not include wages earned at Sapp Bros Inc., a Nebraska

company. The claimant presented evidence of his 2019 earnings with Sapp Bros Inc. (Claimant's Exhibit A).

In addition, the claimant presented evidence of first quarter 2020 earnings with Tometich Inc., should he not be monetarily eligible for a regular base period, but for possibly an alternative base period. (Claimant's Exhibit A was admitted).

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the monetary record is incorrect.

Iowa Code section 96.4(4)a provides:

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 (effective July 7, 2019 this amount is \$1,660), 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 (effective July 7, 2019 this amount is \$830) 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.

Iowa Admin. Code r. 871-24.1(11) provides:

*Base period.* The period of time in which the amount of wages paid to an individual in insured work which determines an individual's eligibility for, and the amount and duration of, benefits. The base period consists of the first four of the last five completed calendar quarters immediately preceding the calendar quarter in which the individual's claim for benefits is effective with the following exception. The department shall exclude three or more calendar quarters from the individual's base period in which the individual received workers' compensation or indemnity insurance benefits and substitute consecutive calendar quarters immediately preceding the base period in which the individual did not receive workers' compensation or indemnity insurance benefits. This exception applies under the following conditions:

a. The individual did not work in and receive wages from insured work for three calendar quarters of the base period, or

- b. The individual did not work in and receive wages from insured work for two calendar quarters and lacked qualifying wages from insured work to establish a valid claim for benefits during another quarter of the base period.

The claimant has presented sufficient and credible evidence to establish insured wages in the quarters outlined above. Those wages shall be included in the monetary record for this base period and the monetary eligibility shall be reconsidered. In the event that the claimant remains monetarily ineligible under a regular base period, he has also furnished evidence that he worked in first quarter of 2020 and therefore may be eligible under an alternative base period.

The unrecorded wage issue delineated in the findings of fact is remanded to the tax section of Iowa Workforce Development for addition of the wages according to the evidence contained in Claimant's Exhibit A.

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. However, because you do not qualify for regular UI benefits, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.

**DECISION:**

The monetary record dated May 19, 2020, is incorrect. The monetary redetermination is reversed. The wages outlined above shall be included in the monetary record and claimant's monetary eligibility shall be reconsidered.

**REMAND:**

The unrecorded wage issue delineated in the findings of fact is remanded to the tax section of Iowa Workforce Development for addition of the wages according to the evidence contained in Claimant's Exhibit A.



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Jennifer L. Beckman  
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June 30, 2020  
Decision Dated and Mailed

jlb/mh