

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JEREMY RODAMAKER
Claimant

APPEAL 17A-UI-06105-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 05/28/17
Claimant: Appellant (1-R)

Iowa Code § 96.3(4) – Determination of Benefits
Iowa Code § 96.19(16) – Definitions – Employer – Agricultural Labor
Iowa Admin. Code r. 871-23.8(3) – Contributions – Agricultural Employer

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 5, 2017, monetary record that showed no insured wages for the base period quarters. After due notice was issued, a telephone conference hearing was scheduled to be held on June 29, 2017. Claimant participated. The claimant's appeal letter, his W-2 forms for the 2015 and 2016 tax years, and the Iowa Secretary of State's records related to Hetland Hogs LLC are included in the hearing record.

ISSUES:

Is the monetary record correct?

Is the agricultural employment considered 'covered' or 'insured work'?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was laid off due to a lack of work on June 2, 2017, as the business is in the process of closing. He received and reported \$702.00 of gross wages earned that week. The wages reported for the week-ending June 10, 2017, should not have been reported since they were wages paid for the prior week's work. Claimant was an employee of the farrowing operation Hetland Hogs LLC. The registered agent is Randy Hetland, 3761 Wilson Avenue, Story City, Iowa 50248. Phone number 515-328-2955 or 515-290-5309. There is no evidence in the administrative record that the employer has an Iowa unemployment insurance tax account or designation as an exempt agricultural employer. The employer, until recently, represented to claimant that he, on behalf of the LLC, was paying unemployment insurance tax on his wages. Claimant received W-2 tax forms showing his income and deductions each year. Claimant had worked for this employer for 12 years and had no other employment. Early in the employment claimant was paid with a personal check and then from a business check after the LLC was organized on December 17, 2014. No paystubs or records other than W-2 forms were provided to claimant.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's monetary record is affirmed, pending a determination from the IWD Tax Bureau whether the employer is exempted from unemployment insurance tax due to agricultural labor.

Iowa Code section 96.3(4) provides:

4. *Determination of benefits.* With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest; the director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

is:	If the number of dependents	The weekly benefit amount shall equal the following fraction fraction of high quarter wages:	Subject to the following maximum percentage of the statewide average weekly wage:
	0	1/23	53%
	1	1/22	55%
	2	1/21	57%
	3	1/20	60%
	4 or more	1/19	65%

The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section "*dependent*" means dependent as defined in section 422.12, subsection 1, paragraph "a", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "*Nonworking spouse*" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

Iowa Code section 96.19(16)/ provides:

96.19 Definitions.

As used in this chapter, unless the context clearly requires otherwise:

16. "*Employer*" means:

1. An employing unit employing agricultural labor after December 31, 1977, if the employing unit:

(1) Paid during any calendar quarter in the calendar year or the preceding calendar year wages of twenty thousand dollars or more for agricultural labor, or

(2) Employed on each of some twenty days during the calendar year or during the preceding calendar year, each day being in a different calendar week, at least ten individuals in employment in agricultural labor for some portion of the day.

Iowa Admin. Code r. 871-23.8(3) provides:

Due date of quarterly reports and contributions.

23.8(3) *Due date for new employer.* The first contribution payment of any employer who becomes newly liable for contributions in any year shall become due and payable on the last day of the month following that quarter wherein occurred the twentieth calendar week, during the calendar year within which a total of one or more workers were employed on any one day, or the last day of the month following that calendar quarter in which a total of \$1,500 in wages was paid. The first payment of such an employer becoming liable in the course of a calendar year shall include contributions with respect to all wages paid for employment from the first day of the calendar year.

a. The first contribution payment of any agricultural employer who becomes newly liable for contributions in any year will become due and payable on the last day of the month following that quarter wherein occurred the twentieth calendar week, during the calendar year within which a total of ten or more workers were employed on any one day, or the last day of the month following that calendar quarter in which a total of \$20,000 in wages was paid. The first payment of such an employer becoming liable in the course of a calendar year shall include contributions with respect to all wages paid for employment from the first day of the calendar year.

Claimant is an employee rather than an independent contractor, but the question of whether his employment was covered has not yet been resolved by the IWD Tax Bureau. Until it is, the monetary record must be affirmed.

DECISION:

The June 5, 2017, monetary record is affirmed, pending the IWD Tax Bureau determination of whether the employer is considered tax exempt unit employing agricultural labor.

REMAND: The agricultural labor exemption issue delineated in the findings of fact is remanded to the Tax Bureau of Iowa Workforce Development for an investigation and unemployment insurance decision with notice to both parties.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/scn