

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CRAIG N CLARK
Claimant

APPEAL NO. 10A-UI-01025-ST

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/29/09
Claimant: Appellant (1)

Section 96.4-4 – Earnings Requirement/Between Benefit Years

STATEMENT OF THE CASE:

The claimant appealed from a representative's decision dated January 5, 2010, reference 01, that held him ineligible for benefits effective November 29, 2009. A telephone hearing was held on February 15, 2010. The claimant participated.

ISSUE:

The issue is whether the claimant has earned \$250.00 between benefit years.

FINDINGS OF FACT:

The administrative law judge having considered the evidence in the record, finds that: The claimant was separated from his employment at Ryan Companies in early December 2008, and he filed a claim effective November 30. The department mailed him a monetary record on December 3 that showed his weekly benefit amount is \$361.00 with maximum benefits of \$3,946.00. The claimant did not appeal the record determination, and he claimed for and received eleven weeks of benefits.

When he received all of his benefits, he checked with a local Workforce representative about what he could do and was advised he could file a second benefit year claim in November 2009. The claimant was told if he had delayed his original claim until January 2009, he could have received more benefits.

The claimant filed his second benefit year claim effective November 29, 2009. He has not worked for any employer and earned wages for insured work since his separation from Ryan Companies.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.4-4 provides:

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

4. 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 subsection 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.

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.

The administrative law judge concludes that the claimant is not eligible to receive benefits on his current unemployment claim effective November 29, 2009, because he does not meet the earnings qualification requirement of \$250.00 of insured work since his prior claim, November 30, 2008. When the claimant learned about the benefit year issue, he should have submitted an appeal at that time, as this issue is not for consideration in this matter.

The law requires an unemployed individual to work and earn at least \$250.00 for insured work during or subsequent to a benefit year in order to be eligible for a second benefit year. The department has no earnings record that the claimant has worked since being separated from employment at Ryan Companies. The claimant should note that if he finds temporary employment where he earns \$250.00, and is separated for no disqualifiable reason, then he may satisfy the issue and become eligible for benefits on his current claim.

DECISION:

The decision of the representative dated January 5, 2009, reference 01, is affirmed. The claimant is not eligible to receive benefits effective November 29, 2009 until he has worked in and been paid wages for insured work of at least \$250.00, provided he is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

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