

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SYLVIE M LARSON
Claimant

APPEAL NO: 09A-UI-04731-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 12/21/08
Claimant: Appellant (1)

Section 96.4-4 – Eligibility for Second Benefit Year

STATEMENT OF THE CASE:

Sylvie M. Larson (claimant) appealed a representative's March 17, 2009 decision (reference 01) that concluded she was not eligible to receive regular unemployment as of December 21, 2008, because she did not earn \$250.00 between December 23, 2007, and December 21, 2008. After a hearing notice was mailed to the claimant's last-known address of record, a telephone hearing was held on April 22, 2009. The claimant participated in the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

Did the claimant earn \$250.00 between December 23, 2007, and December 21, 2008, so she is eligible to receive regular unemployment insurance benefits in a second benefit year or as of December 21, 2008?

FINDINGS OF FACT:

The claimant established a claim for regular unemployment insurance during the week of December 23, 2007. She filed weekly claims and received regular unemployment insurance benefits during this claim year. After the claimant exhausted her regular unemployment insurance benefits, she established a claim for Emergency Unemployment Compensation Benefits in early July 2008. The claimant exhausted these benefits in early October 2008.

The claimant received notices from the Department in early December that she was potentially eligible again to receive Emergency Unemployment Compensation Benefits and that her benefit year was almost over and she should contact her local Workforce office to establish a new benefit year.

In December, the claimant went to her local Workforce office and indicated she wanted her benefits continued. The claimant did not know if she was applying for regular unemployment insurance benefits or Emergency Unemployment Compensation Benefits. The local representative did not ask the claimant if she had earned \$250.00 since December 23, 2007, and the claimant did not receive any information that she needed to earn this amount in wages

before she could establish a subsequent benefit year for regular unemployment insurance benefits. The claimant did not earn \$250.00 in wages between December 23, 2007, and December 21, 2008.

The claimant started receiving benefits and did not know there was a problem with anything until March 17, 2009 when she received the representative's decision that as of December 21, 2008, she was not eligible to receive regular unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

If a claimant draws benefits in any benefit year, she must during or subsequent to that year, work in and be paid wages for insured working totaling at least \$250.00 as a condition to receive benefits in the next benefit year. Iowa Code section 96.4-4. The facts establish the claimant did not work and receive wages of \$250.00 or more between December 23, 2007, and December 21, 2008. Even though the Department should have recognized the claimant had not earned \$250.00 in wages after she established her first benefit year and was not eligible to receive regular unemployment benefits during a second benefit year, the claimant must satisfy this requirement before she can receive regular unemployment insurance benefits during a second benefit year.

The claimant's assertion that she should have been told about this requirement is valid. Also, the Department's delay in recognizing she was not eligible to receive regular unemployment insurance benefits during a second benefit year is inexcusable. Even though the Department may have been inundated with unemployment insurance claims during this time frame, December 2008 through March 2009, the unemployed person, such as the claimant, is the victim of the Department's backlog. Since administrative law judges can only apply the law as it is written, the claimant is not eligible to receive regular unemployment insurance as of December 21, 2008, because she did not earn \$250.00 in wages between December 23, 2007, and December 21, 2008.

DECISION:

The representative's March 17, 2009 decision (reference 01) is affirmed. The claimant is not eligible to receive regular unemployment insurance benefits as of December 21, 2008, because she did not earn \$250.00 in wages between December 23, 2007, and December 21, 2008.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs