

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HARLEY SCHLARBAUM
Claimant

APPEAL NO: 08A-UI-05588-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/01/08 R: 03
Claimant: Appellant (1)**

Section 96.4-4 - Second Benefit Year Qualification

STATEMENT OF THE CASE:

Harley Schlarbaum (claimant) appealed an unemployment insurance decision dated June 11, 2008, reference 01, that concluded he was not eligible to receive unemployment insurance benefits for a second benefit year because he had not been paid insured wages of at least \$250.00. After a hearing notice was mailed to the party's last-known address of record, a telephone hearing was held on July 1, 2008. The claimant participated in the hearing. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant is eligible to receive unemployment insurance benefits for a second benefit year.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant established a claim for benefits in a prior benefit year beginning June 3, 2007 and received benefits. A new benefit year began on June 1, 2008 and the claimant filed a new claim for benefits at that time. On June 11, 2008 a decision was entered which denied benefits effective June 1, 2008 and concluded that the claimant had not been paid insured wages of at least \$250.00 either during or after the previous benefit year in which he received benefits.

The claimant did not earn at least \$250.00 in insured wages during or subsequent to the claim year beginning June 3, 2007.

REASONING AND CONCLUSIONS OF LAW:

If an individual has qualifying wages for the establishment of a second benefit year as specified in Iowa Code section 96.4(4) which were earned prior to the filing of the previous claim, the claimant must either during or subsequent to that year, have been paid wages of insured work totaling at least \$250.00, to be eligible for benefits on a new claim. Vacation pay, severance pay and bonuses are not considered wages for second benefit year qualification purposes. See

871 IAC 24.31. "Insured work" is employment, as defined in state employment security law, performed for a subject employer, or federal employment as defined in the Social Security Act. 871 IAC 24.1(62).

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 statute requires that a claimant work in and be paid wages for insured work since the beginning of the previous benefit year in order to be eligible for benefits in a subsequent benefit year. The intent of the statute is to prevent a claimant from drawing benefits in two benefit years based on the same employment and separation from employment and require some new work and wages before receiving benefits in a second benefit year.

The claimant has not earned at least \$250.00 in insured wages during or subsequent to her previous benefit year established on June 3, 2007. Benefits are denied as of June 1, 2008.

DECISION:

The unemployment insurance decision dated June 11, 2008, reference 01, is affirmed. The claimant is not entitled to receive unemployment insurance benefits as of June 1, 2008.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs