

**IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI**

**JOHN R FISHER
8223 CHAMBERY BLVD
JOHNSTON IA 50131**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**Appeal Number: 05A-UI-00699-CT
OC: 01/02/05 R: 02
Claimant: Appellant (1)**

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4(4) – Second Benefit Year Requalification

STATEMENT OF THE CASE:

John Fisher filed an appeal from a representative's decision dated January 20, 2005, reference 02, which held he did not qualify for a second benefit year. After due notice was issued, a hearing was held by telephone on February 7, 2005. Mr. Fisher participated personally.

FINDINGS OF FACT:

Having heard the testimony of the witness and having reviewed all the evidence in the record, the administrative law judge finds: Mr. Fisher filed a claim for job insurance benefits effective January 4, 2004 after his separation from Mutual of Omaha on January 10, 2004. He continued to receive pay through approximately March 10, 2004. The pay he received after January 10 was for services performed prior to January 10. Mr. Fisher has not worked for wages since January 10, 2004. He

has performed work as an independent contractor since January 10, but the work was not insured. Mr. Fisher filed his current claim effective January 2, 2005.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Mr. Fisher has earned at least \$250.00 in insured wages since filing his prior claim effective January 4, 2004. An individual must have the requisite earnings in order to qualify for a second benefit year.

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.

Mr. Fisher has received insured wages since filing his claim effective January 4, 2004. He filed his claim sometime during the week in which his employment ended. All claims are backdated to be effective with the Sunday of the week in which the individual files the claim. The wages Mr. Fisher was paid after he filed his claim were based on services performed prior to filing his claim. The law requires that he "work in and be paid wages" for insured work after filing the initial claim. Because Mr. Fisher did not perform work for Mutual of Omaha after January 10, 2004, the wages he received after that date would not count towards the \$250.00 requirement. Inasmuch as Mr. Fisher has not performed any work for insured wages after filing his initial claim effective January 4, 2004, he does not qualify for a second benefit year.

DECISION:

The representative's decision dated January 20, 2005, reference 02, is hereby affirmed. Mr. Fisher is not entitled to a second benefit year as he has not earned at least \$250.00 in insured wages since filing his prior claim.

cfc/sc