

**BEFORE THE
EMPLOYMENT APPEAL BOARD
6200 Park Avenue, Suite 100
Des Moines, Iowa 50321
Website: eab.iowa.gov**

DYLAN M BUCHHOLTZ

Claimant

: **APPEAL NUMBER:** 24B-UI-00148
: **ALJ HEARING NUMBER:** 24A-UI-00148

and

:
: **EMPLOYMENT APPEAL BOARD
DECISION**

BRUENING ROCK PRODUCTS INC

:
:
:
:

Employer

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

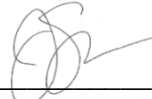
SECTION: 96.23

DECISION


The Claimant appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

This case involves the Claimant's request to substitute quarters for his 12/17/2023 claim. The base period for this claim is the third quarter of 2022 through the second quarter of 2023 inclusive. In this base period the Claimant was paid wages in three quarters. The Claimant argues that the moneys collected in the 4th quarter of 2022 was a vacation payout, and he did not "worked in" that quarter. The problem is that where a claimant has wages in two quarters, and lacks wages in two quarters, it is not enough to substitute. He has to lack wages in two quarters and in addition have one of the other quarters be less than the minimum for the "second highest" quarter. The Claimant's second highest quarter, excluding the 4th quarter of 2022, still has over \$1,900. The applicable minimum is \$1000. So he still fails to meet the criteria for substitution on his 12/17/2023 claim.

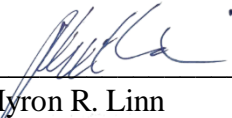
Finally, the effect of our decision is to deny substitution only. It *will not* result in a change in the Claimant's ability to draw benefits on his 01/07/2024 claim. As noted in 00847 the Claimant is currently eligible on the 01/07/2024 claim, based on an alternate base period, and has been drawing benefits, including a payment of back benefits. Today's decisions alter nothing about that state of affairs.



James M. Strohman



Ashley R. Koopmans



Myron R. Linn

RRA/fnv

DATED AND MAILED: FEBRUARY 29 2024