

**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**

**DAVID P GATHERCOLE
11607 NW 121ST ST
GRANGER IA 50109-9754**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**Appeal Number: 06A-UI-05788-JTT
OC: 05/14/06 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) – Minimum Earnings Requirement

STATEMENT OF THE CASE:

David Gathercole filed a timely appeal from the May 24, 2006, reference 01, decision that denied benefits. After due notice was issued, a hearing was held on June 21, 2006. Claimant participated. The administrative law judge took official notice of the Agency's administrative file.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: David Gathercole established a claim that was effective May 14, 2006. Mr. Gathercole had established a prior claim that was effective May 15, 2005 and received benefits during that benefit year, based on a separation from employment that occurred on May 17, 2005. Mr. Gathercole had not worked since May 17, 2005 and has, therefore, not been paid insured wages.

REASONING AND CONCLUSIONS OF LAW:

The question is whether Mr. Gathercole has been paid insured wages of at least \$250.00 either during or after the previous benefit year in which he received benefits.

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 evidence in the record indicates that Mr. Gathercole has not been paid insured wages of at least \$250.00 either during the benefit year that was effective May 15, 2005 or the new benefit year that began May 14, 2006. Because Mr. Gathercole has not met the minimum earnings requirement, he is not eligible for unemployment insurance benefits.

DECISION:

The Agency representative's decision dated May 24, 2006, reference 01, is affirmed. The claimant has not been paid insured wages of at least \$250.00 either during or after the previous benefit year in which he received benefits and is, therefore, not eligible for benefits.

jt/cs