

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

BARRY J MUNHOFEN
412 – 8th ST
SLOAN IA 51055

H & H WELDING & MACHINE INC
RR
SALIX IA 51052

Appeal Number: 04A-UI-03972-BT
OC: 03/14/04 R: 01
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)

871 IAC 24.7(3) – Monetary Eligibility
Section 96.23 – Base Period Exclusion

STATEMENT OF THE CASE:

Barry Munhofen (claimant) appealed an unemployment insurance decision dated March 24, 2004, reference 01, which held that he was not eligible for unemployment insurance benefits. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on April 30, 2004. The claimant participated in the hearing. The employer elected not to participate.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant re-filed a claim for unemployment insurance benefits effective March 14, 2004. His base period is from October 1, 2002 through September 30, 2003. He previously filed a worker's compensation claim and received temporary total disability benefits from November 5, 2001 through December 30, 2002. He received permanent partial disability benefits from April 27, 2003 through December 29, 2003.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is monetarily eligible for unemployment insurance benefits since he had no wage records or lacks qualifying wage requirements. For the following reasons, the Administrative Law Judge finds the claimant is not monetarily eligible.

Iowa Code Section 96.23 provides:

The department shall exclude three or more calendar quarters from an individual's base period, as defined in section 96.19, subsection 3, if the individual received workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17 or indemnity insurance benefits during those three or more calendar quarters, if one of the following conditions applies to the individual's base period:

1. The individual did not receive wages from insured work for three calendar quarters.
2. The individual did not receive wages from insured work for two calendar quarters and did not receive wages from insured work for another calendar quarter equal to or greater than the amount required for a calendar quarter, other than the calendar quarter in which the individual's wages were highest, under section 96.4, subsection 4.

The department shall substitute, in lieu of the three or more calendar quarters excluded from the base period, those three or more consecutive calendar quarters, immediately preceding the base period, in which the individual did not receive such workers' compensation benefits or indemnity insurance benefits.

For the above mentioned code section to apply, the claimant must have received temporary total disability or healing period benefits during three or more calendar quarters of his base period. He only received temporary total benefits for one quarter of his base period. He does not qualify for unemployment insurance benefits because he is not monetarily eligible.

DECISION:

The unemployment insurance decision dated March 24, 2004, reference 01, is affirmed. The claimant is not monetarily eligible to receive unemployment insurance benefits.

sdb/pjs