

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SUSAN M NEMEC
Claimant

APPEAL NO: 11A-UI-14349-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 10/03/10
Claimant: Appellant (1)

Section 96.19-20 – Federal Extension Benefits/Exhaustee

STATEMENT OF THE CASE:

The claimant appealed a department representative's October 20, 2011, decision reference 03, that amends 02, that denied her request for extension benefits, because she was eligible for regular unemployment benefits in Illinois effective March 20, 2011. A telephone hearing was held on November 30, 2011. The claimant, and her husband, Rick, participated.

ISSUE:

Whether the claimant is eligible for federal extension benefits (EUC).

FINDINGS OF FACT:

The claimant established a regular benefit Iowa claim effective October 3, 2010. The claimant exhausted her regular benefits, and filed extended benefit claims effective March 20, 2011, and July 31, 2011. When the claimant filed a second benefit year regular claim effective October 2, 2011, the department noted that she had earned wages in Illinois.

The claimant has worked a part-time, seasonal job for Fried Green Tomatoes in Illinois for the past five years. When she filed her October 2010 claim in Iowa, it was due to her employment with Diamond Jo's and she disclosed she had worked in Illinois.

When the Iowa department representative learned claimant had Illinois wages, the matter was referred to that State. She was informed that she had a monetary eligible claim effective March 30, 2011 and she was paid benefits of \$8,970.00 from that date into November of this year based on a WBA of \$345.00. Claimant does not dispute she received \$10,528.00 for extended benefits as to the 28-week period ending October 1, 2011 from Iowa.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.19(20) provides:

(20) "*Exhaustee*" means an individual who, with respect to any week of unemployment in the individual's eligibility period has received, prior to such week, all of the regular

benefits that were available to the individual under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employees and former armed forces personnel under 5 U.S.C. ch. 85) in the individual's current benefit year that includes such weeks. Provided that for the purposes of this subsection an individual shall be deemed to have received all of the regular benefits that were available to the individual, although as a result of a pending appeal with respect to wages that were not considered in the original monetary determination in the individual's benefit year the individual may subsequently be determined to be entitled to add regular benefits, or:

a. The individual's benefit year having expired prior to such week, has no, or insufficient, wages and on the basis of which the individual could establish a new benefit year that would include such week, and

b. The individual has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965, and such other federal laws as are specified in regulations issued by the United States secretary of labor, and the individual has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada, but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law the individual is considered an exhaustee.

The administrative law judge concludes the claimant is not eligible for federal extension benefits (EUC) through the State of Iowa effective October 3, 2010.

It does appear that the department missed the claimant's disclosure in October 2010 that she had earned wages in Illinois. This caused the department to miss this issue until the claimant filed a subsequent claim in October 2011 and re-affirmed she had worked in Illinois. When it was referred to Illinois, this state did determine she was eligible on CWC claim and paid her benefits (\$8,970) back to the March 20, 2011 eligibility date. Unfortunately, she had been paid benefits on extended benefit claims that require she be an "exhaustee" for regular employment eligibility.

DECISION:

The department representative's October 20, 2011, decision reference 03, that amends 02, is affirmed. The claimant is not eligible to receive extended benefits.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs