

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

MIGUEL A ARCINIEGA LOPEZ

Claimant

and

HAWKINS CONSTRUCTION CO

Employer

: **APPEAL NUMBER:** 22B-UI-17726

: **ALJ HEARING NUMBER:** 22A-UI-17726

:

: **EMPLOYMENT APPEAL BOARD**

:

DECISION

:

:

:

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: 96.3-7, 96.5-5

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**.

The statute is explicit that bonuses are deductible as wages. “‘Wages’ means all remuneration for personal services, including commissions and bonuses and the cash value of all remuneration in any medium other than cash.” Iowa Code §96.1A(40)(a). It is clear from rule 24.52(8) that “[d]eductions from unemployment insurance payments are on a ‘when earned’ basis rather than on a ‘when paid’ basis.” 871 IAC 24.52(8); *see also Hartmann v. IWD*, 10-IWDUI-061 <http://decisions.iowaworkforce.org/ui/2010/01198.X.PDF>; *Claimant Handbook, A Guide to Unemployment Insurance Benefits, What to Report on the Weekly Claim?* (“Wages are reportable when earned, not when paid”). We note also the language in Iowa Code §96.3(3) setting out the offset refers to “that part of wages payable to the individual with respect to that week” - not to wages *paid* that week but rather *payable with respect to* that week. And if this is not clear enough the rule on bonus states:

24.13(4) Nondeductible payments from benefits. The following payments are not considered as wages and are not deductible from benefits:

b. Bonuses. The bonus payment is **only** nondeductible when based on service performed by the individual **before the period in which the individual is also claiming benefits**.

871 IAC 24.52(8). Since the Claimant earned the benefit during the week in question he was properly determined to be overpaid.

James M. Strohman

Ashley R. Koopmans

Myron R. Linn

RRA/fnv