

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

MICHAEL K CLANCY
214 IROQUOIS TR
EAST DUBUQUE IL 61025

CITY OF DUBUQUE
ATTENTION: PERSONNEL DEPT
50 W 13TH ST
DUBUQUE IA 52001-4864

Appeal Number: 05A-UI-01152-S2T
OC: 01/16/05 R: 04
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(4)b(1) – Disqualifications

STATEMENT OF THE CASE:

Michael Clancy (claimant) appealed a representative's January 25, 2005 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits from his work with City of Dubuque (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on February 18, 2005. The claimant participated personally. The employer participated by Darlene Hantelmann, Personnel Assistant.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant's base period of employment was from October 1, 2003, through September 30, 2004. The claimant received workers' compensation for total temporary disability during the last quarter of 2003 and the first quarter of 2004.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant can use workers' compensation benefits as wage credits on this unemployment claim. For the following reasons the administrative law judge concludes he cannot.

871 IAC 24.7(4)b(1) provides:

b. Disqualifications. The request for retroactive substitution of base period quarters shall be denied if the individual received workers' compensation or indemnity insurance benefits in:

(1) At least three base period quarters but the individual is currently monetarily eligible with an established weekly and maximum benefit amount.

When a claimant receives workers' compensation during three or more calendar quarters of the base period of his claim, he can substitute calendar quarters before his base period. The claimant did not receive workers' compensation for total temporary disability during three or more calendar quarters in his current base period. As such, his request to have his claim redetermined by substituting calendar quarters before his base period is denied.

DECISION:

The representative's January 25, 2005 decision (reference 01) is affirmed. The claimant's request to have his claim redetermined by using workers' compensation benefits as wage credits on this unemployment claim is denied.

bas/kjf