

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**TRACY S DRAAYER**  
Claimant

**APPEAL NO. 07A-UI-00157-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PELLA CORPORATION**  
Employer

**OC: 09/24/06 R: 01  
Claimant: Appellant (1)**

871 IAC 24.7(4)B(1) – Substitution of Wages

**STATEMENT OF THE CASE:**

Tracy S. Draayer (claimant) appealed a representative's December 27, 2006 decision (reference 03) that denied her request to substitute calendar quarters before her base period. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on January 23, 2007. The claimant participated in the hearing. No one on behalf of Pella Corporation (employer) responded to the hearing notice. The employer did not participate in the hearing. During the hearing, Claimant Exhibit A was offered and admitted as evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Can the claimant's claim be redetermined by using wages in calendar quarters prior to her base period be substituted?

**FINDINGS OF FACT:**

The last day the claimant performed any work for the employer was August 17, 2005. The claimant took some vacation time, but also went on short-term disability. When the claimant initially established a claim for unemployment insurance benefits during the week of September 24, 2006, her monetary determination was based on the following wages: second quarter of 2005 - \$2,438.00; third quarter of 2005 - \$5,059.00; fourth quarter of 2005 - \$4,865.00; and the first quarter of 2006 - \$3,266.00. Based on these wage credits, the claimant's maximum weekly benefit amount was calculated to equal \$229.00.

Later an adjustment was made to the claimant's base period wages because the employer had reported short-term disability payments and performance and annual bonuses along with her wages. The amended reported wages are: second quarter 2005 - \$2,438.00; third quarter 2005 - \$3,233.00; fourth quarter 2005 - \$494.00; and first quarter 2006 - \$993.00. The claimant does not agree that she earned \$3,233.00 during the third quarter of 2005. If the claimant's bonuses must be considered wages, then she does not dispute the wages reported for the fourth quarter of 2005 and the first quarter of 2006. The claimant asserted she received wages of \$2,952.62 for the third quarter of 2005 instead of \$3,233.00.

The claimant received an annual bonus for \$494.83 on December 1, 2005, and a performance bonus of \$88.22 on March 6, 2006. (Claimant Exhibit A.)

**REASONING AND CONCLUSIONS OF LAW:**

For unemployment insurance purposes, wages means all remunerations for personal services, including commissions and bonuses. Wages shall not include any payment any payment made on account of sickness or accident disability made by an employer. Iowa Code §96.19(41). Pursuant to the law, the bonuses, annual and performance, the claimant received constitutes wages for unemployment insurance purpose. Therefore, the wages recorded for the fourth quarter of 2005 and the first quarter of 2006 are correct.

If a claimant lacks qualifying wages, the Department shall substitute three or more calendar quarter of the base period with those three or more consecutive calendar quarters immediately proceeding the base period in which the individual did not received workers' compensation benefits or indemnity insurance benefits. 871 IAC 24.7(3). The request for retroactive substitution of base period quarters shall be denied if the claimant received workers' compensation or indemnity insurance benefits in at least three base period quarters but the individual is current monetarily eligible with an established weekly and maximum benefit amount. 871 IAC 24.7(4)(b)(1).

To be monetary eligible to receive benefits, a claimant must be paid wages in an amount at least one and one-quarter times the wages paid to the individual during the quarter of the individuals' base period in which the individuals wages were highest. Iowa Code §96.4-4. Since the claimant's high quarter under the Department's calculations or her calculations is the third quarter of 2005, the claimant is monetarily eligible under either the Department's or the claimant's figures. Since the claimant is monetarily eligible to receive benefits without substituting wages from previous quarters, the claimant's request to redetermine her claim by substituting calendar quarters prior to her base period is denied. This means the claimant maximum weekly benefit amount is \$146.00.

**DECISION:**

The representative's December 27, 2006 decision (reference 03) is affirmed. The claimant's request to have her claim redetermined by substituting calendar quarters prior to her base period is denied. The claimant is monetarily eligible to receive benefits based on wages in her base period and she is eligible to receive maximum weekly benefits of \$146.00.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/kjw