

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

PATTI L ENGLEHART
Claimant

FIRST CAPITOL BAKING INC
Employer

APPEAL 22A-UI-15688-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/17/22
Claimant: Appellant (2)

Iowa Code § 96.3(4) – Determination of Benefits
Iowa Code § 96.4(4) – Monetary Eligibility and Subsequent Benefit Year
Iowa Admin. Code r. 871-24.9(1)B – Monetary Determinations

STATEMENT OF THE CASE:

Patti L. Englehart, the claimant/appellant filed an appeal from the July 22, 2022 monetary record (green sheet) that concluded Ms. Englehart was not monetarily eligible for REGULAR (state) UI benefits because there were insufficient wages reported for her Social Security Number during her base period (Second, Third and Fourth quarters of 2021, and First quarter of 2022). The parties were properly notified about the hearing. A telephone hearing was held on September 2, 2022. Ms. Englehart participated personally. Emily Wilson, attorney, represented Ms. Englehart. The employer informed the Appeals Bureau that it would not participate in the hearing, and the employer did not participate in the hearing. The administrative law judge took official notice of the administrative record. Claimant's Exhibits A-C were admitted as evidence.

ISSUES:

Is the monetary record correct?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The base period for Ms. Englehart's claim year effective July 17, 2022 consist of the Second, Third and Fourth quarters of 2021, and the First quarter of 2022. During her base period Ms. Englehart worked for this employer as a full-time administrative assistant/human resources manager/document control person, and later as a human resources manager/administrative assistant/supplier verification assistant. During her base period, Ms. Englehart also worked as a full-time human resources assistant/workers compensation liaison for employer Blackhawk Services Corp, and as a part-time team member for employer Casey's Marketing Company. Ms. Englehart does not dispute the wage information in the monetary record from employers Blackhawk Services Corp, or Casey's Marketing Company.

Ms. Englehart does dispute the wage information in the monetary record from this employer. Ms. Englehart was a salaried employee of this employer. The employer paid Ms. Englehart on Thursdays for the previous week. One day during the week of June 27, 2021 through July 3,

2021, Ms. Englehart was not able to attend work in person. She reported the incident to the employer and worked some from home that day. The employer paid Ms. Englehart on Thursday, July 8, 2021 for the week of June 27, 2021 through July 3, 2021, but did not pay Ms. Englehart her full salary for that week. The following week, the employer released Ms. Englehart to go home for one-half day and she took paid-time-off for another day that. The employer paid Ms. Englehart on Thursday, July 15, 2021 for the week of July 4-10, 2021, but did not pay Ms. Englehart her full salary for that week.

Ms. Englehart filed a wage claim with the IWD Division of Labor (Iowa DOL) on September 3, 2021 for the weeks of June 27, 2021 through July 3, 2021, and July 4-10, 2021 for unpaid wages of \$634.45. The Iowa DOL concluded that the employer owed Ms. Englehart \$634.44 in unpaid wages. Claimant's Exhibit A. The Iowa DOL sent the employer a letter on February 7, 2022 requesting the employer pay Ms. Englehart the unpaid wages, and notifying the employer that if litigation ensued the employer could be liable for the unpaid wages, liquidated damages equal to the amount of the unpaid wages, attorney fees, court costs, and interest. *Id.* The employer did not pay Ms. Englehart the unpaid wages.

The Iowa DOL sued the employer in the Iowa District Court for Des Moines County. The District Court issued an Order for Money Judge by Default on March 29, 2022. Claimant's Exhibit C. The Order entered judgement against the employer in the amount of \$1,268.88 (\$634.44 X 2) plus interest, and court costs.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the monetary record is incorrect.

Iowa Code section 96.4(4) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

4. a. The individual has been paid wages for insured work during the individual's base period in an amount at least one and one-quarter times the wages paid to the individual during that quarter of the individual's base period in which the individual's wages were highest; provided that the individual has been paid wages for insured work totaling at least three and five-tenths percent of the statewide average annual wage for insured work, computed for the preceding calendar year if the individual's benefit year begins on or after the first full week in July and computed for the second preceding calendar year if the individual's benefit year begins before the first full week in July, in that calendar quarter in the individual's base period in which the individual's wages were highest, and the individual has been paid wages for insured work totaling at least one-half of the amount of wages required under this paragraph in the calendar quarter of the base period in which the individual's wages were highest, in a calendar quarter in the individual's base period other than the calendar quarter in which the individual's wages were highest. The calendar quarter wage requirements shall be rounded to the nearest multiple of ten dollars.

b. For an individual who does not have sufficient wages in the base period, as defined in section 96.19, to otherwise qualify for benefits pursuant to this subsection, the individual's base period shall be the last four completed calendar

quarters immediately preceding the first day of the individual's benefit year if such period qualifies the individual for benefits under this subsection.

(1) Wages that fall within the alternative base period established under this paragraph "b" are not available for qualifying benefits in any subsequent benefit year.

(2) Employers shall be charged in the manner provided in this chapter for benefits paid based upon quarters used in the alternative base period.

c. If the individual has drawn benefits in any benefit year, the individual must during or subsequent to that year, work in and be paid wages for insured work totaling at least two hundred fifty dollars, as a condition to receive benefits in the next benefit year.

Iowa Code section 96.3(4) provides:

4. Determination of benefits.

a. With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest; the director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

If the number of dependents is:	The weekly benefit amount shall equal the following fraction of high quarter wages:	Subject to the following maximum percentage of the statewide average weekly wage:
0	1/23	53%
1	1/22	55%
2	1/21	57%
3	1/20	60%
4 or more	1/19	65%

b. The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section "*dependent*" means dependent as defined in section 422.12, subsection 1, paragraph "a", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "*Nonworking spouse*" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

Ms. Englehart had established that the employer owes her unpaid wages for the weeks of June 27, 2021 through July 3, 2021, and July 4-10, 2021, which were payable in Third quarter of 2021. These wages are added to Ms. Englehart's base period wages. After adding the \$634.44 in unpaid wages to the Third quarter of 2021, Ms. Englehart meets the monetary eligibility requirements: 1) she has wages in at least two quarters, 2) she has at least \$950.00 in wages in one quarter and at least \$1,890.00 in another quarter, and 3) her total base period wages are greater than 1.25 times the wages in her highest quarter. The monetary record is incorrect.

DECISION:

The July 17, 2022 corrected monetary record is REVERSED. The monetary record is incorrect. Ms. Englehart has sufficient wages to in her base period to be monetarily eligible for UI benefits.



Daniel Zeno
Administrative Law Judge

September 13, 2022
Decision Dated and Mailed

dz/jb

APPEAL RIGHTS. If you disagree with this decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

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.

AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to **file a petition for judicial review in District Court** within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or 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.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de **presentar una petición de revisión judicial en el Tribunal de Distrito** dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.