

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**CLAYTON S REITZ**  
Claimant

**APPEAL NO: 18A-UI-12282-TN**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ALANIZ LLC**  
Employer

**OC: 12/02/18**  
**Claimant: Appellant (1)**

Iowa Code § 96.23 – Substitution of quarters of workman’s compensation benefits for quarters in base period.

**STATEMENT OF THE CASE:**

Clayton S. Reitz, the claimant filed a timely appeal from a representative’s unemployment insurance decision dated December 21, 2018, (reference 01) which denied his request to have his claim redetermined by substituting wages in calendar quarters prior to his base period. After due notice was provided, an in-person hearing was held in Burlington, Iowa on January 17, 2019. Claimant appeared personally and testified on his own behalf. Although duly notified, the employer indicated they would not be participating in the hearing.

**ISSUE:**

The issue is whether the claimant’s request to have his claim redetermined by substituting workmen’s compensation quarters prior to his base period was properly denied.

**FINDINGS OF FACT:**

Having considered all of the evidence in the record, the administrative law judge finds: Clayton Reitz was employed by Alaniz LLC as a full-time building maintenance worker and was paid by the hour. It appears that Mr. Reitz last performed services for Alaniz LLC in July 2017. Mr. Reitz was examined and underwent surgery on his neck that Mr. Reitz believed was necessitated by a work injury. It appears Mr. Reitz’s physician initially agreed that a work injury was the cause. However, he later concluded the injury was not work connected. A review of agency records and the claimant’s administrative file shows no information that would verify that a worker’s compensation’s claim had been filed or approved or that establishes that Mr. Reitz had received workman’s compensation benefits for three or more calendar quarters.

Mr. Reitz testified that later, (date unspecified) he entered into a settlement agreement with Alaniz LLC, and that Alaniz LLC agreed not to dispute any claim he made for unemployment insurance benefits.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code § 96.23(1), (2) provides:

1. The department shall exclude three or more calendar quarters from an individual's base period, as defined in section 96.19, subsection 3, if the individual received workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17 or indemnity insurance benefits during those three or more calendar quarters, if one of the following conditions applies to the individual's base period:
  - a. The individual did not receive wages from insured work for three calendar quarters.
  - b. The individual did not receive wages from insured work for two calendar quarters and did not receive wages from insured work for another calendar quarter equal to or greater than the amount required for a calendar quarter, other than the calendar quarter in which the individual's wages were highest, under section 96.4, subsection 4, paragraph a.
2. The department shall substitute, in lieu of the three or more calendar quarters excluded from the base period, those three or more consecutive calendar quarters, immediately preceding the base period, in which the individual did not receive such workers' compensation benefits or indemnity insurance benefits.

The evidence in the record does not establish that Mr. Reitz received worker's compensation benefits for temporary or total disability during for a sufficient period under section 85.33, section 85.34, section 1 or section 85.17 or indemnity insurance benefits during three or more calendar quarters. Mr. Reitz was unable to provide any specific information or documentation that would establish that he had received worker's compensation benefits for the requisite period related to his base period of employment and agency records do not reflect that Mr. Reitz received sufficient worker's compensation benefits. If Mr. Reitz has documentation that supports that he has sufficient quarters of workman's compensation, this information should be supplied to Iowa Workforce Development.

Although sympathetic to Mr. Reitz's situation, the administrative law judge concludes that the evidence in the record reflects that Mr. Reitz did not receive worker's compensation during three or more calendar quarters of the base period of his claim which is July 1, 2017 through June 30, 2018.

The administrative law judge concludes that the claimant's request to have his claim redetermined or redetermined by substituting wages in calendar quarters prior to his base period was properly denied.

Iowa Code § 96.23(1), (2) provides:

1. The department shall exclude three or more calendar quarters from an individual's base period, as defined in section 96.19, subsection 3, if the individual received workers' compensation benefits for temporary total disability or during a healing period under section 85.33, section 85.34, subsection 1, or section 85A.17 or indemnity insurance benefits during those three or more calendar quarters, if one of the following conditions applies to the individual's base period:
  - a. The individual did not receive wages from insured work for three calendar quarters.

b. The individual did not receive wages from insured work for two calendar quarters and did not receive wages from insured work for another calendar quarter equal to or greater than the amount required for a calendar quarter, other than the calendar quarter in which the individual's wages were highest, under section 96.4, subsection 4, paragraph a.

2. The department shall substitute, in lieu of the three or more calendar quarters excluded from the base period, those three or more consecutive calendar quarters, immediately preceding the base period, in which the individual did not receive such workers' compensation benefits or indemnity insurance benefits.

**DECISION:**

The representative unemployment insurance decision dated December 21, 2018, reference 01 is affirmed. Claimant's request to have his unemployment claim redetermined by substituting wages in calendar quarters prior to his base period was properly denied. The claimant did not receive worker's compensation during three or more calendar quarters of his base period.

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Terry P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

tn/scn