

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

JUSTIN G EWOLDSSEN
Claimant

INTERFIRST MORTGAGE COMPANY
Employer

APPEAL NO. 22A-UI-16646-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 08/14/22
Claimant: Appellant (2R)

Iowa Code Section 96.3(4) – Monetary Determination

STATEMENT OF THE CASE:

On August 29, 2022, Justin Ewoldsen (claimant) filed a timely appeal from the monetary determination that was mailed to the claimant on August 22, 2022. After due notice was issued, a hearing was held on September 26, 2022. The claimant participated. The employer did not comply with the hearing notice instructions to call the designated toll-free number at the time of the hearing and did not participate. Exhibits A, B and C, the online appeal and two attached pay stub documents, were received into evidence at the time of the hearing. The administrative law judge took official notice of the following Agency administrative records: DBRO, WAGEA, the monetary determination mailed to the claimant on August 22, 2022, IBIQ, myiowauui.org information for employer account number 536951, and the notice of claim mailed August 22, 2022. The administrative law judge requested and the claimant provided paystubs from the beginning of the employment to the end of the employment, the severance pay document, and a 2021 W-2, which materials were received into evidence as Exhibits D, E and F respectively.

ISSUES:

Whether the monetary determination mailed to the claimant on August 22, 2022 was correct. Whether the monetary determination weekly and maximum benefit amount determinations should have included wages from insured work with InterFirst Mortgage Company.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Justin G Ewoldsen established an original claim for benefits that was effective August 14, 2022. On August 22, 2022, Iowa Workforce Development mailed a monetary determination to the claimant. The monetary determination correctly stated the claimant's dependents as two dependents. Iowa Workforce Development set the claimant's weekly benefit amount at \$428.00 and maximum benefit amount at \$4,260.83. The applicable base period consists of the second, third and fourth quarters of 2021 and the first quarter of 2022. The monetary determination references two base period employers: Innovations Real Estate (employer account number 506880) and InterFirst Mortgage Company. The monetary record omits the employer account number for InterFirst Mortgage Company. Innovations Real Estate correctly reported the

claimant's base period wages to IWD: \$9,006.84 paid during the second quarter of 2021 and \$3,775.64 paid during the third quarter of 2021.

Chicago Mortgage Solutions, L.L.C., doing business as InterFirst Mortgage Company (employer account number 536951), failed to make quarterly wage reports to IWD regarding base period wages paid to the claimant for insured work during the third quarter and fourth quarters of 2021 and the first quarter of 2022. InterFirst also failed to make a quarterly wage report for wages paid to the claimant during the second quarter of 2022.

The claimant was employed by InterFirst Mortgage Company as a full-time Senior Mortgage Underwriter from August 23, 2021 through August 12, 2022. The claimant performed full-time work for the employer through May 25, 2022. The employer provided biweekly severance payments through the pay period that ended August 13, 2022. Though the employer is headquartered in Rosemont, Illinois, the claimant performed all of the work from his home in Indianola, Iowa. There is no indication in the records available to the administrative law judge (IBIQ) that the employer reported quarterly wages for the claimant to the Illinois Department of Employment Security (IDES).

The claimant has provided InterFirst Mortgage Company payroll records that reflect biweekly wages paid for full-time work performed as an employee of the employer during the period of August 23, 2021 through May 25, 2022 and for biweekly severance pay paid to the claimant for the period of May 26, 2022 through August 12, 2022. The claimant has also provided a bona fide 2021 W-2 Wage and Tax Statement from Chicago Mortgage Solutions (FEIN 36-4485107) that reflects the \$32,110.88 in wages paid to the claimant in 2021. The payroll records reflect quarterly wages paid as follows:

<u>Quarter</u>	<u>Wages Paid During the Quarter</u>
2021/3	5,705.29
2021/4	26,405.59
2022/1	22,756.13
2022/2	26,416.42
2022/3	19,230.61

Because InterFirst did not make quarterly wage reports to Iowa Workforce Development, the claimant's base period wages earned through the InterFirst employment were erroneously omitted from the monetary determination mailed to the claimant on August 22, 2022 and, therefore, erroneously omitted from the weekly benefit amount and maximum benefit amount calculations.

On August 29, 2022, the claimant filed a timely appeal from the August 22, 2022 monetary determination.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.3-4 provides for calculation of the weekly benefit amount as follows:

4. Determination of benefits. 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%

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 "c", 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.

The monetary record shall constitute a final decision unless newly discovered facts which affect the validity of the original determination or a written request for reconsideration is filed by the individual within ten days of the date of the mailing of the monetary record specifying the grounds of objection to the monetary record. Iowa Admin. Code r. 871-24.9(1)(b).

The claimant's August 29, 2022 appeal from the August 22, 2022 monetary determination was filed prior to the 10-day statutory deadline for challenging the monetary determination.

The monetary determination mailed to the claimant on August 22, 2022 erroneously omitted base period wage earned with employer Chicago Mortgage Solutions, L.L.C., doing business as InterFirst Mortgage Company (employer account number 536951) during the third and fourth quarters of 2021 and the first quarter of 2022. The base period wages to be added to the claim are as follows:

<u>Quarter</u>	<u>Wages Paid During the Quarter</u>
2021/3	5,705.29
2021/4	26,405.59
2022/1	22,756.13

Because the monetary determination erroneously omitted wages, it also included an erroneous weekly benefit amount and maximum benefit amount.

The claimant's request to add the above-referenced base period wages earned with InterFirst Mortgage Company is GRANTED. This matter will be remanded for redetermination of the claimant's weekly benefit amount and maximum benefit amount including the erroneously

omitted wages. As part of the remand, the Benefits Bureau should also take the opportunity to document the post-base-period quarterly wages.

DECISION:

The claimant's request to add the above-referenced base period wages earned with InterFirst Mortgage Company is GRANTED. The August 22, 2022 monetary determination erroneously omitted base period wage earned with employer Chicago Mortgage Solutions, L.L.C., doing business as InterFirst Mortgage Company (employer account number 536951) during the third and fourth quarters of 2021 and the first quarter of 2022. Because the monetary determination erroneously omitted wages, it also included an erroneous weekly benefit amount and maximum benefit amount.

The base period wages to be added to the claim are as follows:

<u>Quarter</u>	<u>Wages Paid During the Quarter</u>
2021/3	5,705.29
2021/4	26,405.59
2022/1	22,756.13

REMAND:

This matter will be is REMANDED to the Benefits Bureau for redetermination of the claimant's weekly benefit amount and maximum benefit amount including the erroneously omitted wages. As part of the remand, the Benefits Bureau should also take the opportunity to document the post-base-period quarterly wages.



James E. Timberland
Administrative Law Judge

October 6, 2022
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the 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>.

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 adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.