

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

OSCAR MORALES

Claimant

APPEAL NO. 17A-UI-07033-B2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WAL-MART STORES INC

Employer

OC: 03/19/17

Claimant: Appellant (1R)

Iowa Code § 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

Claimant in this matter contacted Iowa Workforce Development on or around July 13, 2017. It appears that claimant in this matter appealed a decision filed from a decision of a representative dated April 21, 2017, reference 03, which held claimant ineligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on July 28, 2017. Claimant participated personally. Employer participated by Linda Jensen.

ISSUE:

The issue in this matter is whether claimant is filing a timely appeal.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: The facts presented to the administrative law judge are confusing, to say the least. A Unemployment Insurance Decision was issued for an Oscar Morales, living in Sioux Center, Iowa, with a social security number of xxx-xx-6240 on April 21, 2017. This was based on an original claim filed by Mr. Morales on March 19, 2017. Said Decision denied unemployment benefits to claimant. There was filing of an appeal in that matter within ten days of its issue.

Oscar R. Morales (name obtained from Unemployment Insurance Appeal Form) filed an appeal on July 13, 2017 stating a Coralville, Iowa address. Said claim listed an original claim date of June 18, 2017 (which was also listed as the decision date), and mentioned that claimant was a victim of ID theft. Claimant did not disclose his social security number on the Appeal Form.

When claimant and employer were called for the hearing, claimant stated that he'd never lived at the Sioux Center address listed as claimant's address. Claimant also stated that he'd been working at a Coralville area Wal-Mart store while the Oscar Morales with the March 19, 2017 original claim worked at a Wal-Mart store in Sioux Center. The claimant stated that his job separation occurred sometime in June, while the original unemployment decision in the above referenced case number involved a separation from Wal-Mart occurring in March of 2017.

The Wal-Mart official stated that claimant's identification number stated was different than the employment number of the Oscar Morales that worked at the Sioux Center Wal-Mart. Claimant also stated that his social security number did not have the same last four digits as stated by the administrative law judge as claimant was not willing to give his entire social security number to the judge.

Whereas claimant is arguing that he worked at the Coralville area Wal-Mart since October of 2016, IWD records done under a name search as claimant gave only information as to an Oscar Morales living in Sioux Center, Iowa. Said searches showed no history of an Oscar R. Morales in Iowa City, and certainly did not mention his working at the Coralville Wal-Mart up until June, 2017 – when claimant stated job separation occurred.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

This matter is looked at by the Administrative Law Judge as a question to whether Oscar Morales, (Soc. Sec. No. xxx-xx-6240) filed an appeal of his April 21, 2017 Unemployment Insurance Decision in a timely manner. As documents in this matter were not received until July 13, 2017, if at all for the above-referenced social security number, the appeal in this matter was not timely filed.

As claimant, Oscar R. Morales, who gave no social security number, has not had his particularized unemployment insurance request examined by Iowa Workforce Development; this

matter will be remanded to the fact finders for further determination as to the identities, employments, and separation issues of Oscar R. Morales.

DECISION:

The decision of the representative dated April 21, 2017, reference 03, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible. This matter will be remanded to the fact finder for further exploration of the identity and employment issues presented in this matter.

Blair A. Bennett
Administrative Law Judge

Decision Dated and Mailed

bab/scn