

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

WENDY J BISHOP
Claimant

APPEAL NO. 17A-UI-01006-ECT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 11/09/14
Claimant: Appellant (6)**

Iowa Code § 96.4(3) – Overpayment
Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Admin. Code r. 871-26.4(2) – Basis for Appeal

STATEMENT OF THE CASE:

This matter was erroneously set up as an appeal from the decision issued on December 9, 2015, reference 02, establishing a net overpayment in the amount of \$5289.00 due to incorrectly reported wages. The appeal was filed on January 30, 2017. The claimant filed an appeal from another unemployment insurance decision, issued on December 30, 2015. A decision was issued in the other appeal, No. 17A-UI-01007, on February 17, 2017.

ISSUE:

Was this matter erroneously set up as an appeal from the overpayment decision issued December 9, 2015?

Was the appeal untimely?

FINDINGS OF FACT:

The evidence available in the administrative file shows that the claimant filed appeals in January of 2017 from unemployment insurance decisions issued in December of 2015. In her appeal letter, the claimant states that she understands that she owes the \$5289.00 overpayment.

The appeal was filed on January 30, 2017. The deadline to appeal this decision was December 19, 2015.

REASONING AND CONCLUSIONS OF LAW:

An appeal from an unemployment insurance decision should include the grounds upon which it is based. Iowa Admin. Code r. 871-26.4(2). The claimant mentioned the overpayment, but also stated that she understood that she owes the money, the \$5289.00 overpayment. The claimant did not include any grounds for an appeal from this overpayment decision. The appeal was set up in error.

Furthermore, the appeal is untimely. The decision was issued on December 9, 2015. The appeal deadline was December 19, 2015. This decision includes this statement: "This decision becomes final unless an appeal is postmarked by 12/19/2015, or received by Iowa Workforce Appeal Section by that date." The appeal was received in the UI Appeals Bureau on January 30, 2017.

Iowa Code §96.6(2) requires a claimant to file an appeal of an IWD decision "within ten calendar days after notification was mailed to the claimant's last known address." The Iowa Supreme Court determined that a timely appeal is both mandatory and jurisdictional. *Beardslee v. Iowa Dept. of Job Services*, 276 N.W.2d 373, 377 (Iowa 1979).

The claimant's appeal was dated January 30, 2017, more than two years after the appeal deadline. This appeal was untimely. Because the claimant's appeal was untimely, I do not have jurisdiction to consider the basis of the overpayment decision.

DECISION:

This matter was erroneously set up as an appeal from the overpayment decision issued on December 9, 2015, reference 02. The appeal is dismissed. The decision issued on December 9, 2015, reference 02, remains in effect.

Emily Gould Chafa
Unemployment Insurance Appeals Bureau
Iowa Workforce Development

Decision Dated and Mailed

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