

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LUTHER, CODY, W
Claimant

APPEAL NO. 13A-UI-02462-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

B & T TRUCKING LLC
Employer

OC: 11/25/12
Claimant: Respondent (6)

Iowa Code Section 96.6 – Appeals and Notification of Interested Parties

STATEMENT OF THE CASE:

The Appeal Section erroneously docketed an employer appeal from the January 3, 2013, reference 01, decision that allowed benefits to the claimant provided he was otherwise eligible and that held the employer's protests could not be considered because it was not timely. Hearing was scheduled for March 27, 2013. Claimant Cody Luther and Employer Representative Tara Miller appeared at that time. Prior to the hearing going forward and prior to the presentation of evidence, the administrative law judge determined that the appeal had been erroneously docketed and would be dismissed. Being apprised of the particulars in the matter, the administrative law judge hereby enters a decision dismissing the appeal.

ISSUES:

Whether B & T trucking, L.L.C., employer account number 517360, filed an appeal from the January 3, 2013, reference 01 decision. The employer did not.

Whether an appeal from Sharp Construction, employer account number 369147, is properly before the administrative law judge. It is not.

FINDINGS OF FACT:

Having reviewed the administered file, the administrative law judge finds: On March 4, 2013, *Sharp Construction, employer account number 369147*, submitted a written protest to charges assessed to that employers account for benefits paid to claimant Cody Luther. Sharp Construction erroneously directed the filing to the Appeals Section, rather than to the Claims Division or to the Tax Bureau. Neither the Claims Division nor the Tax Bureau has entered a formal ruling to form the basis for an appeal.

When the Appeals Section staff received Sharp Construction's three-page fax on March 4, 2013, the Appeals Section staff treated the filing as if it were a bonafide appeal from a lower decision. The staff looked for a lower decision to associate with the Sharp Construction filing. They located the only lower decision that had been entered concerning claimant Cody Luther. That decision was the January 3, 2013, reference 01 decision that allowed benefits to Mr. Luther provided he was otherwise eligible and that held that the protest from employer *B & T*

trucking, L.L.C., employer account number 517360, could not be considered because it was not timely. B & T Trucking had not, and still has not, filed an appeal from the January 3, 2013, reference 01 decision.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6 sets forth the process for entry of a decision at the Claims level, from which decision an aggrieved party may appeal. No such decision has been entered concerning claimant Cody Luther vs. Sharp Construction, employer account number 369147.

Iowa Code section 96.6 also sets forth the process by which an employer may appeal a decision entered by the Claims Division. B & T Trucking had not, and still has not, filed an appeal from the January 3, 2013, reference 01 decision.

An appeal has been erroneously docketed. This appeal case is hereby dismissed. The Appeals Section will forward the Sharp Construction filing to the Claims Division and the Tax Bureau. B & T Trucking may file an actual appeal, but that employer would need to prevail on both the timeliness of appeal issue, and the timeliness of protest issue, before issues relating to the claimant's separation from the employment could be addressed at the appeals level. A copy of this decision will be mailed to Mr. Luther, B & T Trucking and Sharp Construction.

DECISION:

The agency representative's decision dated January 3, 2013, reference 01, remains in effect. The erroneously docketed appeal in this matter is hereby dismissed. Sharp Construction's March 4, 2013 filing will be forwarded to the Claims Division and the Tax Bureau.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

jet/tll