

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

AYDEN M BROSZEIT
Claimant

OLSON EXPLOSIVES INC
Employer

APPEAL 23A-UI-01221-DS-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/22/23
Claimant: Respondent (1R)**

Iowa Code § 96.6(3) – Appeals

STATEMENT OF THE CASE:

On February 6, 2023, the employer filed an appeal from the unemployment insurance decision dated February 1, 2023, (Reference 01) that allowed benefits and stated that the employer's account may be charged for benefits paid. Notice of hearing was mailed to the parties' last known addresses of record for a telephone hearing to be held at 11:00 a.m. on February 21, 2023. The claimant participated personally. The employer participated through Rhonda Albert, Chief Financial Officer. No exhibits were offered or admitted to the record. The administrative law judge took official notice of the administrative record.

ISSUE:

Has the issue been previously adjudicated?

FINDINGS OF FACT:

The administrative law judge finds that:

The Department issued a decision on January 5, 2023, (Reference 01), that stated that the claimant was allowed benefits but that the account of Olson Explosives, Inc., would not be charged because the claimant had left the employment for the sole purpose of accepting employment with a new employer. Olson Explosives, Inc., did not disagree with this decision and neither party appealed it. The claimant filed a claim for benefits on a new claim year as of January 22, 2023. On February 1, 2023, the Department issued a new decision, Reference 01, stating that the claimant was eligible for benefits and that the account of Olson Explosives, Inc., may be charged for benefits paid.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the issue of employer charging has been previously adjudicated, and accordingly, this decision is affirmed but remanded for correction by the Department.

Iowa Code section 96.6(3) provides:

3. Appeals.

a. Unless the appeal is withdrawn, an administrative law judge, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the representative. The hearing shall be conducted pursuant to the provisions of chapter 17A relating to hearings for contested cases. Before the hearing is scheduled, the parties shall be afforded the opportunity to choose either a telephone hearing or an in-person hearing. A request for an in-person hearing shall be approved unless the in-person hearing would be impractical because of the distance between the parties to the hearing. The notice for a telephone or in-person hearing shall be sent to all the parties at least ten calendar days before the hearing date. Reasonable requests for the postponement of a hearing shall be granted. The parties shall be duly notified of the administrative law judge's decision, together with the administrative law judge's reasons for the decision, which is the final decision of the department, unless within fifteen days after the date of notification or mailing of the decision, further appeal is initiated pursuant to this section.

b. Appeals from the initial determination shall be heard by an administrative law judge employed by the department. An administrative law judge's decision may be appealed by any party to the employment appeal board created in section 10A.601. The decision of the appeal board is final agency action and an appeal of the decision shall be made directly to the district court.

The issue of the claimant's eligibility was resolved by the decision of the Department dated January 5, 2023, (Reference 01). However, the statement on that decision regarding the chargeability of the account of Olson Explosives, Inc., conflicts with the statement made on the decision dated February 1, 2023, (Reference 01).

DECISION:

The February 1, 2023, (Reference 01) unemployment insurance decision is **AFFIRMED** as having been previously adjudicated.

REMAND:

The matter of the chargeability of the account of Olson Explosives, Inc., is REMANDED to the Department for determination.



David J. Steen
Administrative Law Judge
Iowa Department of Inspections & Appeals
Administrative Hearings Division - UI Appeals Bureau

February 24, 2023
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. *There is no filing fee to file an appeal with the Employment Appeal Board.*

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 file a petition for judicial review in district court.

2. If you do not file 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 www.iowacourts.gov/efile. *There may be a filing fee to file the petition in District Court.*

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. *No hay tarifa de presentación para presentar una apelación ante la Junta de Apelación de Empleo.*

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 no presenta una apelación de la decisión del juez ante la Junta de Apelación de Empleo dentro de los quince (15) días, la decisión se convierte en una acción final de la agencia y tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días. Puede encontrar información adicional sobre cómo presentar una petición en www.iowacourts.gov/efile. *Puede haber una tarifa de presentación para presentar la petición en el Tribunal de Distrito.*

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.