

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WHITNEY R WILSON
Claimant

CUSTOM-PAK INC – LP2
Employer

APPEAL NO. 23A-UI-10679-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 09/04/22
Claimant: Respondent (6)**

Iowa Code Section 96.6 – Erroneously Docketed Appeal

STATEMENT OF THE CASE:

The Appeals Bureau erroneously docketed a November 14, 2023 employer appeal from a Statement of Charges as also a late appeal from the October 12, 2022 (reference 01) decision that allowed benefits for the period beginning September 4, 2022, provided the claimant was otherwise eligible, based on the deputy's conclusion the claimant was at that time temporarily laid-off and considered able to work and available for work. A hearing was set for 9:00 a.m. on December 1, 2023 and both parties were duly notified. Neither party appeared from the hearing. Upon review of IWD administrative records and the appeal, the administrative law judge concluded the appeal was erroneously docketed and should be dismissed.

ISSUE:

Whether the erroneously docketed employer appeal from the October 12, 2022 (reference 01) decision should be dismissed.

FINDINGS OF FACT:

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

On November 13, 2023, the employer filed an appeal from a Statement of Charges that Iowa Workforce Development mailed to the employer on November 9, 2023. The Statement of Charges included a charge for benefits paid to the claimant during the calendar quarter that ended September 30, 2023. The benefit charge in question was connected to an "additional claim" for benefits that was effective August 20, 2023 and a notice of claim that IWD mailed to the employer on August 24, 2023. The August 20, 2023 additional claim was the fourth additional claim in connection with a benefit year that began on September 4, 2022. The employer's appeal from the Statement of Charges is addressed in a separate appeal number and was addressed as part of a separate appeal hearing. See Appeal Number 23A-UI-10681-JT-T.

The Appeals Bureau erroneously docketed a November 14, 2023 employer appeal from the October 12, 2022 (reference 01) decision that allowed benefits for the period beginning September 4, 2022, provided the claimant was otherwise eligible, based on the deputy's

conclusion the claimant was at that time temporarily laid-off and considered able to work and available for work.

REASONING AND CONCLUSIONS OF LAW:

The appeal rights and process set forth in Iowa Code section 96.6 presumes an appeal has been filed. In this instance, the employer filed no appeal from the October 12, 2022 (reference 01) decision and the Appeals Bureau erroneously docketed an appeal from that decision. For these reasons, the appeal docketed in the present matter is dismissed. The employer's appeal from the Statement of Charges is addressed in a separate appeal number.

DECISION:

The erroneously docketed appeal from the October 12, 2022 (reference 01) decision is DISMISSED.



James E. Timberland
Administrative Law Judge

December 5, 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
6200 Park Ave Suite 100
Des Moines, Iowa 50321
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
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: 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 adquiriera 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.