

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

KATIE M CRAWFORD
2735 – 8TH ½ AVE
ROCK ISLAND IL 61201

APAC CUSTOMER SERVICES INC
c/o TALK UC EXPRESS
PO BOX 283
ST LOUIS MO 63166-0283

Appeal Number: 05A-UI-12332-CT
OC: 06/19/05 R: 12
Claimant: Respondent (4)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.4(3) – Able and Available
Section 96.6(2) – Timeliness of Appeals

STATEMENT OF THE CASE:

APAC Customer Services, Inc. (APAC) filed an appeal from a representative's decision dated July 21, 2005, reference 02, which allowed benefits to Katie Crawford but denied the employer relief from benefit charges. After due notice was issued, a hearing was held by telephone on December 27, 2005. Ms. Crawford participated personally. The employer participated by Turkessa Hill, Human Resources Coordinator, and Tina Thomure, TALX UC eXpress.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: The representative's decision that is the subject of

this appeal was mailed to the employer's authorized representative on July 21, 2005 and was received on July 26, 2005. An appeal was due by July 31, 2005. Because the due date fell on a Sunday, it would be extended to the following Monday, August 1, 2005. The employer filed an appeal by mail on August 1, 2005, but it was not received by Iowa Workforce Development. The employer was not aware that Ms. Crawford had been allowed benefits until receipt of the statement of charges on December 2, 2005. An appeal was filed on December 2, 2005.

Ms. Crawford has been employed by APAC since January 12, 2004. She was hired to work approximately 33 hours per week as a customer service representative. She filed a claim for job insurance benefits effective June 19, 2005 because of a reduction in work hours. She would sometimes be sent home if there was not sufficient work. The first week for which she claimed benefits, the week ending June 25, Ms. Crawford reported \$108.00 in earnings. She missed four hours of work during that week because she went home early on June 23. She also missed eight hours of work because she took June 24 off. Her hourly rate of pay is \$8.25. Ms. Crawford was paid \$88.00 in job insurance benefits for the week ending June 25. Her weekly job insurance benefit amount is \$157.00.

For the week ending July 2, Ms. Crawford reported \$150.00 in earnings. She was absent from eight hours of work on June 30 for her own reasons. She was not paid job insurance benefits for the weeks ending July 9 and July 16, because of excess earnings. Ms. Crawford reported earnings of \$155.00 for the week ending July 23. She was sent home early two times that week for a total of 10.5 hours. She was not paid job insurance benefits for the weeks ending July 30 and August 6, because of excess earnings. Ms. Crawford reported earnings of \$157.00 for the last week claimed, the week ending August 13. The employer has no record of Ms. Crawford missing any time from scheduled work that week due either to being sent home or to taking time off at her own initiative. She was paid \$39.00 in job insurance benefits for the week ending August 13.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this matter is whether the employer filed a timely appeal from the decision allowing benefits to Ms. Crawford. The evidence establishes that the employer did file a timely appeal as required by Iowa Code section 96.6(2). Through no fault of the employer, the appeal was not received by Iowa Workforce Development. The employer pursued an appeal as soon as it learned through the statement of charges that benefits had been allowed to Ms. Crawford and charged to the employer's account. For the above reasons, the administrative law judge concludes that a timely appeal was filed and that there is jurisdiction to rule on the merits of the appeal.

The next issue is whether Ms. Crawford satisfied the availability requirements of the law at all times since filing her claim effective June 19, 2005. Although she may have been sent home early on June 23, she missed eight hours of work on June 24 because she took the day off. If she had worked those eight hours as scheduled, she would have earned an additional \$66.00 in wages, for a total of \$174.00. This amount of wages would have resulted in ineligibility for the week ending June 25, as her total earnings would have exceeded her weekly benefit amount plus \$15.00 ($\$157.00 + \$15.00 = \172). Ms. Crawford also missed eight hours of scheduled work on June 30 for personal reasons. When the missed wages of \$66.00 are combined with her actual earnings of \$150.00 for the week ending July 2, she would have been ineligible for benefits because of excess wages.

Ms. Crawford received benefits for the week ending July 23. She was entitled to benefits for the week, as she missed 10.5 hours of work due to being sent home by the employer. Her eligibility for benefits for the week ending August 13 is questionable. Ms. Crawford reported only \$157.00 in earnings, but the employer's records do not indicate any missed work that week. The wages reported compute to 19 hours of work. Any doubt as to eligibility for the week shall be resolved in Ms. Crawford's favor.

The administrative law judge concludes that Ms. Crawford was not entitled to job insurance benefits for the weeks ending June 25 and July 2, because she missed time from scheduled work at her own initiative. Had she worked the hours scheduled but missed, she would have had earnings that would have rendered her ineligible for benefits. Job insurance benefits are not intended to subsidize time an individual is off work for personal reasons. For the reasons stated herein, the \$88.00 and \$46.00 in benefits received by Ms. Crawford for the weeks ending June 25 and July 2, respectively, now constitute an overpayment and must be repaid. Iowa Code section 96.3(7).

DECISION:

The representative's decision dated July 21, 2005, reference 02, is hereby modified. Ms. Crawford was not entitled to job insurance benefits for the weeks ending June 25 and July 2, 2005, as she was not available to work the full scheduled workweek. Benefits are allowed for all other weeks claimed, provided she satisfied all other conditions of eligibility. Ms. Crawford has been overpaid \$134.00 in job insurance benefits.

cfc/kjw