

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ANTONIO GUERRERO
Claimant

APPEAL NO. 20A-UI-13313-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**PRAIRIE MEADOWS RACETRACK
& CASINO**
Employer

OC: 03/15/20
Claimant: Respondent (6R)

Iowa Code Section 96.4(3) – Able & Available
Iowa Code Section 96.7(2)(a)(2) – Employer Liability
Iowa Code Section 96.6 – Aggrieved Party Requirement
Iowa Administrative Code Rule 871-26.8(1) – Dismissal of Appeal, No Aggrieved Party

STATEMENT OF THE CASE:

The employer filed a timely appeal from the October 22, 2020, reference 01, decision that allowed benefits to the claimant effective March 15, 2020, provided the claimant was otherwise eligible, and that held the employer's account would not be charged for benefits, based on the deputy's conclusion that the claimant was still employed with this employer in same way as before he filed his claim for benefits. The decision directed the claimant to report his wages for each claim week. The decision directed the employer to notify Iowa Workforce Development in the event there was a separation from the employment so that future benefits could be correctly paid and charged. A hearing was set for December 18, 2020 and the parties were appropriately notified. The claimant did not provide a telephone number for the hearing and did not appear. The employer appeared through Brian Coy. The administrative law judge concluded that the employer was not an aggrieved party, that there was no need for an appeal hearing, but that remand to the Investigations & Recovery Unit was appropriate.

ISSUE:

Whether the employer is an aggrieved party for purposes of the October 22, 2020, reference 01, decision.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer filed a timely appeal from the October 22, 2020, reference 01, decision that allowed benefits to the claimant effective March 15, 2020, provided the claimant was otherwise eligible, and that held the employer's account would not be charged for benefits, based on the deputy's conclusion that the claimant was still employed with this employer in same way as before he filed his claim for benefits. The decision directed the claimant to report his wages for each claim week. The decision directed the employer to notify Iowa Workforce Development in the event

there was a separation from the employment so that future benefits could be correctly paid and charged.

REASONING AND CONCLUSIONS OF LAW:

The appeal rights and procedures set forth at Iowa Code section 96.6 presuppose and require the existence of an aggrieved party.

Iowa Administrative Code rule 871-26.8(1) provides as follows: “An appeal may be dismissed upon the request of a party or in the agency’s discretion when the issue or issues on appeal have been resolved in the appellant’s favor.”

The October 22, 2020, reference 01, decision indicated the employer account would not be charged for benefits for the period beginning March 15 2020, so long as the claimant continued in the same employment. There is no further remedy the administrative law judge can provide to the employer beyond the relief of charges provided in the October 22, 2020, reference 01, decision. The employer is not aggrieved by the October 22, 2020, reference 01, decision. Accordingly, the appeal is dismissed.

This matter will be remanded to the Iowa Workforce Development Investigations & Recovery Unit for determination of whether the claimant has accurately reported his wages from this employer and from his other employer since he established his claim for benefits. Comparison of the WAGE-A quarterly wage report to the KCCO Continued Claims suggests an omission and/or under-reporting of wages.

This matter is also remanded to the Benefits Bureau for determination of whether there was a separation from the employment on or about May 2, 2020 and determination of eligibility and liability in connection with any such separation.

DECISION:

The October 22, 2020, reference 01, decision remains in effect. The employer is not aggrieved by the decision. The employer’s appeal is dismissed.

This matter is **remanded** to the Iowa Workforce Development Investigations & Recovery Unit for determination of whether the claimant has accurately reported his wages from this employer and from his other employer since he established his claim for benefits.

This matter is also **remanded** to the Benefits Bureau for determination of whether there was a separation from the employment on or about May 2, 2020 and determination of eligibility and liability in connection with any such separation.

A rectangular box containing a handwritten signature in cursive script that reads "James E. Timberland".

James E. Timberland
Administrative Law Judge

January 4, 2021
Decision Dated and Mailed

jet/scn