

**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**

**AUGUSTUS L BRANDON
106 – 11TH ST
WEST DES MOINES IA 50265**

**ANKENY SANITATION INC
PO BOX 487
ANKENY IA 50021**

**Appeal Number: 04O-UI-03963-L
OC 01-11-04 R 02
Claimant: Respondent (2)**

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 96.5-2-a – Discharge/Misconduct
Section 96.3-7 - Recovery of Benefit Overpayment

STATEMENT OF THE CASE:

The employer filed a timely appeal from the February 4, 2004, reference 01, decision that allowed benefits. Claimant's address of record has been as stated above during the entire claim process thus far. Claimant received the fact-finding interview notice at that address of record and participated. At the appeal to the EAB, claimant claims not to have received the notice. After due notice was issued, a hearing was scheduled to be held on April 29, 2004. The employer did respond to the hearing notice and did participate. Claimant did not respond to the hearing notice instructions for the remand hearing and did not participate. Because the Employment Appeal Board did not vacate the original appeal decision, that hearing record is adopted and incorporated herein.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the March 3, 2004 administrative law judge's findings of fact in Appeal 04-A-UI-01359-ET is hereby adopted and incorporated herein as the findings of fact for Appeal 04-O-UI-03963-LT.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the March 3, 2004 administrative law judge's reasoning and conclusions of law in Appeal 04-A-UI-01359-ET is hereby adopted and incorporated herein as the reasoning and conclusions of law for Appeal 04-O-UI-03963-LT.

DECISION:

Inasmuch as the decision was not vacated as a result of the Employment Appeal Board remand, the March 3, 2004 administrative law judge's decision in Appeal 04-A-UI-01359-ET is hereby adopted and incorporated herein as the decision for Appeal 04-O-UI-03963-L. Benefits are withheld until such time as the claimant works in and has been paid wages equal to ten times his weekly benefit amount, provided he is otherwise eligible. Claimant had been overpaid benefits in the amount of \$1,416.00.

dml/kjf