

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ZACHARY L HEALEY
Claimant

DOHERTY STAFFING SOLUTIONS
Employer

APPEAL 15A-UI-14074-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/15/15
Claimant: Respondent (1)**

871 IAC 24.19(3) – Determination and Review of Benefit Rights

STATEMENT OF THE CASE:

The employer filed an appeal from the November 30, 2015 (reference 04) unemployment insurance decision that allowed the employer's account to be charged for benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 14, 2016. Claimant did not participate. Employer participated through Glenda Niemiec, Unemployment Benefits Administrator. Official notice was taken of agency records.

ISSUES:

Did the agency have the legal authority to nullify a decision they issued?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On August 6, 2015, Iowa Workforce Development Department issued a representative's decision (original claim date March 15, 2015) reference 03 finding that the claimant had earned ten times his weekly benefit amount since his separation from this employer on April 1, 2014. That decision was issued in error as wage records for the claimant clearly indicate he had not earned ten times his weekly benefit amount since his separation of April 2, 2014. When the agency discovered that they had issued an incorrect decision, they issued the November 30, 2015, reference 04 decision, (the one at issue here), nullifying the reference 03 decision. That left the employer's account subject to charges based upon an administrative law judge's decision issued on May 28, 2014 in appeal number 14A-UI-04419-LT which found their protest untimely. That decision was not appealed and has become final.

In that decision, the employer's notice of protest for the claim year beginning March 19, 2014 was deemed to be untimely and benefits were allowed and their account was subject to charge. Administrative Law Judge Lewis made that decision based upon a separation date of April 1, 2014. The employer did not appeal. The claimant had no new separation from this employer after April 1, 2014.

The employer seeks relief of charges for the second quarter of 2015 in the amount of \$128.14 for benefits paid to the claimant as a result of Judge Lewis' decision. That decision has been interpreted by the agency as allowing charges based upon the claimant's separation of April 1, 2014.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the agency did have the authority to nullify an incorrectly issued decision.

871 IAC 24.19(3) provides:

Upon receiving a written request for review or, on its own initiative and on the basis of the facts as it may have in its possession or may acquire, the claims section may affirm, modify, or reverse the prior decision, or refer the claim to an administrative law judge. The claimant or any other party filing the request for review shall be promptly notified of the decision or referral. Unless the claimant or any other party files an appeal within ten days after the date of mailing, the latter decision shall be final and benefits shall be paid or denied in accordance therewith.

It is clear from agency wage records that claimant had not requalified for benefits since his separation from this employer on April 1, 2014. As set out above the agency has the right to nullify an incorrectly issued decision. Since the employer cannot establish that the decision was correct, the agency was correct in nullifying it. The employer's account is subject to charge.

DECISION:

The November 30, 2015, (reference 04) unemployment insurance decision is affirmed. The agency was correct in nullifying the decision. The employer's account is subject to charges pursuant to the Administrative Law Judge's decision issued in 14A-UI-04419-LT.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/pjs