

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

MARK BENDER
Claimant

APPEAL NO: 08A-UI-06416-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

HARDEES FOOD SYSTEMS INC
Employer

OC: 04/06/08 R: 01
Claimant: Respondent (2/R)

871 IAC 26.2 - Not a Contested Case
Iowa Code § 96.7 - Employer Liability - Wrong Employer Noticed

STATEMENT OF THE CASE:

Hardees Food Systems, Inc. (employer) appealed an unemployment insurance decision dated July 2, 2008, reference 06, which held that Mark Bender (claimant) was eligible for unemployment insurance benefits. Due notice was issued scheduling the matter for a telephone hearing to be held on July 29, 2008. Based on the fact that the claimant never worked for this employer, the hearing was cancelled.

ISSUE:

The issue is whether a hearing in this matter is necessary.

FINDINGS OF FACT:

The administrative law judge, having reviewed and considered all of the evidence in the record, finds that: The notice of claim was sent to the incorrect employer. The incorrect employer filed a protest explaining the claimant did not work for them. A fact-finding interview was held on June 26, 2008 and the fact-finder found the employer liable for benefits. The employer appealed and an appeal hearing was scheduled. Prior to the hearing, the employer representative contacted the administrative law judge to again report the claimant never worked for this employer. The employer herein is the corporate Hardees Food System, Inc.

The employer for whom the claimant worked was Hardees in Creston, Iowa. The corporate office of this restaurant is Westar Foods, Inc. located at 10703 Barkley in Overland Park, Kansas and its employer account number is 355055. Iowa Workforce Development currently lists an incorrect address for Westar Foods as it is listed as 10705 Barkley instead of 10703 Barkley. There has been no determination made as to whether the claimant's separation from Hardees of Westar Foods was disqualifying or not.

REASONING AND CONCLUSIONS OF LAW:

The question is whether a hearing in this matter is necessary. It is not because the disqualification decision and resulting appeal were filed in error. The administrative law judge

has reviewed the records and files herein and concludes that the original decision should be reversed and the appeal should be dismissed as to Hardees Food Systems, Inc.

This case is remanded to the Claims Section for a proper determination as to the claimant's eligibility for benefits based on the correct employer.

DECISION:

The unemployment insurance decision dated July 2, 2008, reference 06, is reversed. The claimant did not work for Hardees Food Systems, Inc and no benefits shall be charged to its account. This case is remanded to the Claims Section for a determination on whether the claimant is eligible for benefits based on his separation from Hardees of Westar Foods, Inc. (Employer Account Number 355055).

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs