

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMIE A ECKHOFF

Claimant

APPEAL NO. 10A-UI-08247-CT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BELMOND AREA ARTS COUNCIL

Employer

OC: 05/09/10

Claimant: Respondent (4)

Section 96.4(3) – Able and Available
Section 96.7(2)a(2) – Relief of Charges
Section 96.6(2) – Timeliness of Appeals

STATEMENT OF THE CASE:

Belmond Area Arts Council filed an appeal from a representative's decision dated May 28, 2010, reference 01, which allowed benefits to Jamie Eckhoff but denied the employer relief from charges. After due notice was issued, a hearing was held by telephone on July 27, 2010. Mr. Eckhoff participated personally. The employer participated by Leslie Heifner, Theatre Manager.

ISSUE:

The first issue is whether the employer's appeal should be deemed timely filed. If it is, the issue then becomes whether Mr. Eckhoff is available for work and whether the employer's account should be charged if benefits are paid to him.

FINDINGS OF FACT:

Having heard the testimony 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 on May 28, 2010. The employer received the decision. The employer had previously received a determination relieving it of charges for Mr. Eckhoff because he was still employed there. Based on this prior decision, the employer questioned its local Workforce Development office as to whether it would be necessary to appeal the May 28 decision. The employer was led to believe that an appeal would not be necessary. The employer did not learn until June 9 that it would need to appeal the determination. The appeal was due on June 7 but was not filed until June 9, 2010.

Mr. Eckhoff has been employed by Belmond Area Arts Council since the summer of 1997. He works approximately five hours each week operating the projector. His work was usually supplemental to regular, full-time employment elsewhere.

REASONING AND CONCLUSIONS OF LAW:

A party has ten days in which to appeal from a representative's decision. Iowa Code section 96.6(2). The employer in this matter had a good-faith belief that it would not need to file an appeal because of a prior determination that relieved it of charges for Mr. Eckhoff. This belief was reinforced by information provided by Workforce Development. The employer acted with due dispatch in filing an appeal as soon as it was notified one would be required. For the above reasons, the appeal filed on June 9, 2010 shall be deemed timely filed. As such, the administrative law judge has jurisdiction over the remaining issues.

In order to receive job insurance benefits, an individual must be available for work. Iowa Code section 96.4(3). Mr. Eckhoff's five hours of work each week with Belmond Area Arts Council is not sufficient to render him unavailable for other work. In the past, he has maintained full-time employment elsewhere while working for this employer and remains available to the same extent. Based on the foregoing, it is concluded that he is available for work within the meaning of the law. Belmond Area Arts Council is currently providing Mr. Eckhoff with the same employment as it did during the base period of his claim. As such, the employer is entitled to a relief from charges pursuant to Iowa Code section 96.7(2)a(2).

DECISION:

The representative's decision dated May 28, 2010, reference 01, is hereby modified. Mr. Eckhoff satisfied the availability requirements of the law as of May 9, 2010. Benefits are allowed, provided he is otherwise eligible, but shall not be charged to Belmond Area Arts Council.

Carolyn F. Coleman
Administrative Law Judge

Decision Dated and Mailed

cfc/css