

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DANA J HOLTHAUS
Claimant

APPEAL NO: 15A-UI-00036-S2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 06/22/14
Claimant: Appellant (1)**

Section 96.6-2 – Timeliness of Appeal
871 IAC 24.9(1)b – Timely Monetary Determination

STATEMENT OF THE CASE:

The claimant appealed from the December 19, 2014, reference 02, corrected monetary record. After due notice was issued, a hearing was held by telephone conference call on January 28, 2015. The claimant did participate. Department's Exhibit D-1 was admitted to the record.

ISSUE:

The issue is whether the claimant filed a timely appeal to the monetary record and, if so, whether the monetary record is correct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A corrected monetary record was mailed to the claimant's last-known address of record on December 19, 2014. The claimant did not receive the record within ten days. The record contained a warning that an appeal must be postmarked or received by the Appeals Section within ten days of the date of mailing. The appeal was filed until January 2, 2015; which is after the expiration of the ten-day appeal period.

The claimant could find no errors in the monetary record.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the claimant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6-2 provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly

examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant did not have an opportunity to appeal the corrected monetary record because it was not received. Therefore, the appeal shall be accepted as timely.

For the reasons that follow the administrative law judge concludes the claimant's monetary record is correct.

Iowa Code § 96.3-4 provides:

4. Determination of benefits. With respect to benefit years beginning on or after July 1, 1983, an eligible individual's weekly benefit amount for a week of total unemployment shall be an amount equal to the following fractions of the individual's total wages in insured work paid during that quarter of the individual's base period in which such total wages were highest; the director shall determine annually a maximum weekly benefit amount equal to the following percentages, to vary with the number of dependents, of the statewide average weekly wage paid to employees in insured work which shall be effective the first day of the first full week in July:

| If the number of dependents is: | The weekly benefit amount shall equal the following fraction of high quarter wages: | Subject to the following maximum percentage of the statewide average weekly wage. |
|---------------------------------|---|---|
| 0 | 1/23 | 53% |
| 1 | 1/22 | 55% |
| 2 | 1/21 | 57% |
| 3 | 1/20 | 60% |
| 4 or more | 1/19 | 65% |

The maximum weekly benefit amount, if not a multiple of one dollar shall be rounded to the lower multiple of one dollar. However, until such time as sixty-five percent of the statewide average weekly wage exceeds one hundred ninety dollars, the maximum weekly benefit amounts shall be determined using the statewide average weekly wage computed on the basis of wages reported for calendar year 1981. As used in this section "dependent" means dependent as defined in section 422.12, subsection 1, paragraph "c", as if the individual claimant was a taxpayer, except that an individual claimant's nonworking spouse shall be deemed to be a dependent under this section. "Non-working spouse" means a spouse who does not earn more than one hundred twenty dollars in gross wages in one week.

The claimant can find no error in the corrected monetary record. The December 19, 2014 corrected monetary record is correct.

DECISION:

The monetary record dated December 19, 2014 (reference 02) is affirmed. The appeal in this case is considered timely. The claimant's December 19, 2014 corrected monetary record is correct.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

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