

**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**

**ARMANDO R CARDENAS
212 N WASHINGTON ST
WAYLAND IA 52654**

**CITY OF WASHINGTON
ATTN CLERK
PO BOX 516
WASHINGTON IA 52353-0516**

**Appeal Number: 04A-UI-04960-AT
OC: 10-26-03 R: 04
Claimant: Respondent (5)**

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 96.6-2 – Timely Protest
Section 96.7-2-a(2) – Relief of Charges

STATEMENT OF THE CASE:

The City of Washington filed a timely appeal from an unemployment insurance decision dated April 23, 2004, reference 03, which allowed benefits to Armando R. Cardenas upon a finding that the employer's protest was untimely. Due notice was issued for a telephone hearing to be held on May 21, 2004. Neither party responded to the hearing notice. This decision is based on information in Agency records, the employer's appeal letter, and the administrative file.

FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: Armando R. Cardenas filed a claim for unemployment insurance benefits effective October 26, 2003. The City of Washington last reported wages for Mr. Cardenas for the fourth quarter of 2002. He earned more than ten times his weekly benefit amount in wages for insured work with another employer before he filed his claim for unemployment insurance benefits.

The City of Washington has reported to Iowa Workforce Development that Mr. Cardenas left employment on October 23, 2003. There is no record of any wages being paid by the City to Mr. Cardenas at any time during 2003. The City has not provided any details concerning the separation.

REASONING AND CONCLUSIONS OF LAW:

The question in this case is whether the City of Washington can be relieved of charges for benefits paid to Mr. Cardenas. The administrative law judge concludes that there is insufficient evidence in this record to grant that relief.

The employer's appeal letter recites that it had not received the initial notice of claim when Mr. Cardenas filed his claim for unemployment insurance benefits. Assuming this to be the case, the administrative law judge would potentially have jurisdiction to rule on the merits of the case provided that the employer filed a timely appeal from the first quarterly statement of charges showing benefits paid to Mr. Cardenas and charged to the city.

Assuming but not finding that the employer's appeal from the statement of charges could be accepted as timely, the administrative law judge would then look for evidence of whether the separation was with or without good cause attributable to the employer or some situation covered specifically by statute in which the employer could be relieved. The employer has not provided any such information. Thus, the administrative law judge concludes that relief of charges is not appropriate given the evidence in this record.

DECISION:

The unemployment insurance decision dated April 23, 2004, reference 03, is modified. The protest can be accepted as timely. The claimant is entitled to receive unemployment insurance benefits, provided he is otherwise eligible, because of his earnings after working for the City of Washington but before filing his claim for unemployment insurance benefits. The employer's request for relief of charges is denied because it has not provided sufficient evidence to establish a quit without good cause attributable to the employer.

tjc/b