

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALEXANDER R HOPPE
Claimant

APPEAL 24A-UI-04680-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/07/24
Claimant: Appellant (6)**

Iowa Code § 96.6(2) – Timeliness of Protest / Timeliness of Appeal
Iowa Code § 96.7(2)A(6) – Statements of Charges
Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Admin. Code r. 871-24.19(3) – Claims Bureau Subsequent Action
Iowa Admin. Code r. 871-26.11 - Motions

STATEMENT OF THE CASE:

The claimant, Alexander R. Hoppe, filed an appeal on May 9, 2024, seeking unemployment insurance benefits for one week during his claim year effective January 21, 2024. This appeal was applied to the statement of charges dated May 9, 2024 (reference 03), listing charges to his employer McClure Masonry Inc's account for the first quarter of 2024. The Unemployment Insurance Appeals Bureau scheduled a hearing at 9:00 a.m. on Friday, May 31, 2024. However, this appeal was not appropriately applied to the statement of charges. Therefore, no testimony or additional evidence was necessary. No hearing was held.

ISSUE:

Should the appeal be dismissed as set up in error?

FINDINGS OF FACT:

These findings of fact are based on the pertinent agency documents relating to this claimant and his appeal.

Claimant Alexander R. Hoppe filed his appeal on May 9, 2024, seeking payment for a week when he failed to file a weekly continued claim for benefits. Based on a cursory review of the administrative record, it appears claimant opened his claim effective January 21, 2024; filed weekly continued claims for several weeks; and then discontinued filing. Claimant established an additional claim date effective March 31, 2024. However, he did not file a weekly continued claim for the week ending April 6, 2024. Therefore, he did not receive a payment that week. Claimant has contacted IWD and has been told "nothing can be done to correct the error..." (Appeal letter) IWD has not issued claimant a decision with appeal rights regarding this week of benefits.

Subsequently, the IWD Tax Bureau issued the employer its May 9, 2024 (reference 03) statement of charges, reflecting charges to its account for the first quarter of 2024. The

employer did not file an appeal of this statement of charges. When claimant's appeal came to the UI Appeals Bureau, this statement of charges was the most current document issued during claimant's claim year that contained appeal rights. Therefore, the appeal was (mistakenly) applied to this statement of charges.

REASONING AND CONCLUSIONS OF LAW:

Iowa Admin. Code r. 871-24.19(3) provides:

Determination and review of benefit rights.

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 benefits bureau 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.

Iowa Admin. Code r. 871-26.8(1) provides:

Withdrawals, dismissals, and postponements.

An appeal may be withdrawn at any time prior to the issuance of a decision upon the request of the appellant and with the approval of an administrative law judge or the manager or chief administrative law judge of the appeals bureau. Requests for withdrawal may be made in writing or orally, provided the oral request is tape-recorded by the presiding officer.

An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor.

Generally, courts and administrative tribunals do not decide issues when the underlying controversy is moot. *Rhiner v. State*, 703 N.W.2d 174, 176 (Iowa 2005). "A case is moot if it no longer presents a justiciable controversy because the issues involved are academic or nonexistent." *Iowa Bankers Ass'n v. Iowa Credit Union Dep't*, 335 N.W.2d 439, 442 (Iowa 1983)

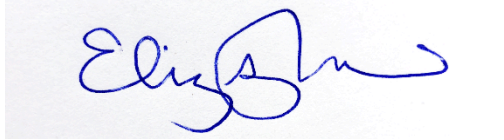
The claimant filed an appeal on May 9, 2024. However, he does not currently have a justiciable issue for the UI Appeals Bureau. There is no matter to hear on appeal.

Claimant's appeal was incorrectly applied to the May 9, 2024 (reference 03) unemployment statement of charges. The appeal was set up in error. As such, this appeal should and must be dismissed.

NOTE: Claimant is encouraged to return to Iowa Workforce Development and seek resolution through the agency.

DECISION:

The statement of charges dated May 9, 2024 (reference 03) is affirmed. The appeal is dismissed as moot.



Elizabeth A. Johnson
Administrative Law Judge

June 4, 2024
Decision Dated and Mailed

lj/scn

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

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.

AN APPEAL TO THE BOARD SHALL 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.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or 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.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Iowa Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.