

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LISA LATCH
Claimant

ROBERT F ETZEL II
Employer

APPEAL 18A-UI-10978-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/08/18
Claimant: Appellant (5R)

Iowa Code §96.6 – Notification of Interested Parties – Wrong Employer
Iowa Code § 96.3(5) – Benefit Duration - Business Closing

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the November 2, 2018 (reference 02) unemployment insurance decision that denied the claimant's request to re-determine the claim based upon a business closure. After due notice was issued, a telephone conference hearing was held on November 27, 2018. Claimant participated. Robert F. Etzel II participated on behalf of the employer.

ISSUE:

Was the proper employer notified?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds:

The employer listed in this matter, Robert F Etzel II, operates a restaurant in West Des Moines, Iowa. The employer account number for Robert F Etzel II is 604008. The claimant last worked for Red Diamond Processing and Packaging LLC.

That employer account number is 596503. The wrong employer was listed in the Unemployment Insurance Decision dated November 2, 2018 (reference 02) as the claimant has never worked for Robert F Etzel II (employer account number 604008).

As such, the matter of whether the claimant is eligible to have her monetary determination recalculated due to a business closure with Red Diamond Processing and Packaging LLC (employer account number 596503) is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and determination, with notice and opportunity to be heard afforded to both the claimant and Red Diamond Processing and Packaging LLC. The Benefits Bureau shall then issue a decision which includes the correct employer. The claimant

or the employer may file an appeal of any subsequent unemployment insurance decision if the interested party disagrees with it by following the appeal rights listed on the subsequent decision.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes as follows:

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, subsections 10 and 11, 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.

(emphasis added).

When Iowa Workforce Development enters a decision affecting a claim for benefits, the Agency is required to notify the interested parties. Iowa Code § 96.6(2). The November 2, 2018 (reference 02) unemployment insurance decision included the wrong employer as an interested party. The correct employer was not included in the decision. The claimant was never employed by Robert F Etzel II (employer account number 604008). A decision involving the correct parties must be issued.

DECISION:

The November 2, 2018 (reference 02) unemployment insurance decision is modified with no change in effect, pending the remanded matter.

REMAND: The matter of whether the claimant is eligible to have her claim re-determined as a business closing is remanded to the Benefits Bureau for an initial investigation and determination, with notice and opportunity to be heard afforded to both the claimant and the correct employer, which is Red Diamond Processing and Packaging LLC (employer account number 596503).

Dawn Boucher
Administrative Law Judge

Decision Dated and Mailed

db/rvs