

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

SCOTT R KAESER
4426 DRIFTWOOD LN
IOWA CITY IA 52240

PLEASANT VALLEY NURSERY
LANDSCAPING & IRRIGATION INC
4201 NURSERY LN SE
IOWA CITY IA 52240

Appeal Number: 06A-UI-05741-CT
OC: 12/11/05 R: 03
Claimant: Respondent (4)

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) – Timeliness of Protests/Finality of Decisions

STATEMENT OF THE CASE:

Pleasant Valley Nursery, Landscaping & Irrigation, Inc. (Pleasant Valley) filed an appeal from a representative's decision dated May 25, 2006, reference 01, which held that the protest to Scott Kaeser's claim was not timely filed. Due notice was issued scheduling the matter for a telephone hearing to be held on June 20, 2006. However, based on records of Workforce Development, a hearing was deemed unnecessary.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Mr. Kaeser filed a claim for job insurance benefits effective December 12, 2004. On

December 22, 2004, Workforce Development issued a decision allowing benefits on a finding that he had requalified for benefits after his separation from Pleasant Valley. The decision provided that the employer would be relieved of benefit charges on the claim. Wage credits earned with the company from July 1, 2003 through August 9, 2004 were to be charged to the unemployment compensation fund.

Mr. Kaeser filed a new claim for benefits effective December 11, 2005. Notice of the claim was mailed to Pleasant Valley on December 13, 2005. The employer protested the claim on December 19 but the protest was not received by Workforce Development. On May 9, 2006, a statement of charges for the first quarter of 2006 was mailed to the employer. Because the statement reflected charges for benefits paid to Mr. Kaeser, the employer appealed the charges in a letter dated May 17, 2006. Mr. Kaeser had only one period of employment with Pleasant Valley and that work ended on August 9, 2004.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether the employer's account was properly charged for benefits paid to Mr. Kaeser during the first calendar quarter of 2006. His one and only separation from Pleasant Valley was adjudicated in the decision of December 22, 2004, bearing reference 01. That determination allowing benefits to Mr. Kaeser and relieving the employer of charges became final in the absence of any appeal by January 1, 2005. See Iowa Code section 96.6(2). As such, Workforce Development was without jurisdiction to adjudicate the matter when Mr. Kaeser filed his new claim effective December 11, 2005. Therefore, the issue of whether the employer timely protested the 2005 claim is moot.

The employer's account was charged \$199.54 for benefits paid to Mr. Kaeser during the first quarter of 2006. Inasmuch as there was a final decision relieving the employer of charges for the August 9, 2004 separation, the charges shall be removed.

DECISION:

The representative's decision dated May 25, 2006, reference 01, is hereby modified. The employer was not required to file a timely protest as Mr. Kaeser's separation had been previously adjudicated. Benefits are allowed, provided he satisfies all other conditions of eligibility. Charges for benefits paid to Mr. Kaeser shall be removed from Pleasant Valley's account.

cfc/cs