

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ZACHARY D SPEARS

Claimant

ALBERICI CONSTRUCTORS INC

Employer

APPEAL 18A-UI-01082-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/10/17

Claimant: Respondent (6)

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code §96.4(3) – Able and Available to Work
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:

Zachary D. Spears (claimant/appellant) filed an appeal from the unemployment insurance decision dated January 5, 2018, reference 01, that he was not eligible for unemployment insurance benefits as of December 17, 2017, because he was not partially unemployed. However, due to a clerical error in the Appeals Bureau, the incorrect decision was set up for appeal. The appeal was entered for the decision dated January 5, 2018, reference 01, which found the claimant was eligible for benefits effective December 10, 2017, as he was partially unemployed. The parties were properly notified about the hearing. A telephone hearing was held on February 16, 2018. The claimant participated. The employer did not respond to the hearing notice and did not participate. The Department's Exhibits D1 and D2 were admitted into the record.

ISSUE:

Should the appeal be dismissed as it was set up in error?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The employer did not file an appeal for the unemployment insurance decision dated January 5, 2018, reference 01, which was a decision made in the claimant's favor. The claimant appealed the decision dated January 5, 2018, reference 02, which is the subject of the appeal in 18A-UI-01462-SC-T. (Exhibit D2) The appeal hearing for the unemployment insurance decision dated January 5, 2018, reference 01, was set up in error.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons, the administrative law judge concludes the appeal should be dismissed as it was set up in error.

Iowa Code section 96.6(2) provides, in pertinent part:

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. . . . 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.

The employer did not file an appeal to the decision in the claimant's favor. The employer did not register for the hearing or take any other action to indicate it was appealing the reference 01 decision. The claimant was very clearly appealing the reference 02 decision. The appeal was set up in error and as no appeal has been filed on that decision, it has become final agency action. The appeal is dismissed.

DECISION:

The appeal of the unemployment insurance decision dated January 5, 2018, reference 01, that was set up in error is dismissed.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn