

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NANCY L ROBERTSON
Claimant

APPEAL 20A-UI-06748-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 01/20/19
Claimant: Appellant (4/R)**

Iowa Code § 96.3(4) – Determination of Benefits
871 IAC 24.9(1)b – Timely Monetary Determination
Iowa Code § 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed from the June 4, 2020, reference 04, corrected monetary record. After due notice was issued, a hearing was held by telephone conference call on July 29, 2020. The claimant did participate. Department's Exhibit D-1 was admitted to the record. The administrative law judge took official notice of the administrative file.

ISSUES:

The issue is whether the claimant filed a timely appeal to the monetary record and whether the monetary determination was correct.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant worked for Johansson Stable in Allentown, New Jersey, from April 15, 2019, to July 11, 2019. The department requested information from the state of New Jersey regarding the claimant's earnings for 2019. New Jersey responded and provided earnings of \$1,339.22 in the third quarter of 2019 from Johansson Stable. The claimant provided a W-2 from Johansson Stable from 2019. It shows wages of \$7,849.38 from 2019. New Jersey did not reflect the remaining \$6,510.16 in the second quarter of 2019. The claimant earned \$6,510.16 in the second quarter of 2019.

A corrected monetary record was mailed to the claimant's last known address of record on June 4, 2020. The claimant received the record. The record contained a warning that an appeal must be postmarked or received by the Appeals Section within ten days of the date of mailing. The appeal was filed on Monday, June 15, 2020, which is within the appeal period.

REASONING AND CONCLUSIONS OF LAW:

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.

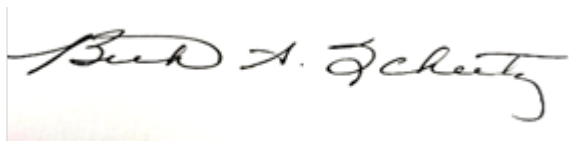
The ten calendar days for appeal begins running on the mailing date. The "decision date" found in the upper right-hand portion of the representative's decision, unless otherwise corrected immediately below that entry, is presumptive evidence of the date of mailing. *Gaskins v. Unempl. Comp. Bd. of Rev.*, 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Board of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976). This would apply to the date of the monetary record as well. The record in this case shows the appeal was filed within the ten days and shall be considered timely.

The matter is remanded for a monetary determination that includes the earnings in the second quarter of 2019.

DECISION:

The June 4, 2020, reference 04, corrected monetary record is modified in favor of the appellant. The appeal in this case was timely.

The matter is remanded for a monetary determination that includes the earnings in the second quarter of 2019.

A handwritten signature in black ink, reading "Beth A. Scheetz". The signature is written in a cursive style with a large, stylized 'S' at the end.

Beth A. Scheetz
Administrative Law Judge

August 4, 2020
Decision Dated and Mailed

bas/scn