

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TYLER BRADLEY
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 21A-UI-19308-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/14/19
Claimant: Appellant (1)

Iowa Code § 96.6(2) – Timely appeal
PL116-136, Sec. 2107 – Pandemic Emergency Unemployment Compensation (PEUC)

STATEMENT OF THE CASE:

Tyler Bradley, the claimant/appellant, filed an appeal from the July 22, 2020 (reference 03) unemployment insurance (UI) decision that denied federal Pandemic Emergency Unemployment Compensation (PEUC) benefits on his Iowa claim effective May 17, 2020 because he would be monetarily eligible for REGULAR UI benefits in the State of Nebraska. Mr. Bradley was properly notified of the hearing. A telephone hearing was held on October 25, 2021. Mr. Bradley participated and testified. Jodi Tallent, Mr. Bradley's mother participated and testified in his favor. The administrative law judge took official notice of the administrative record.

ISSUES:

Was Mr. Bradley's appeal filed on time?
Is Mr. Bradley eligible for PEUC benefits?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Mr. Bradley at the correct address on July 22, 2020. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development (IWD) Appeals Section by August 1, 2020. If the date falls on a Saturday, Sunday, or legal holiday, the appeal period is extended to the next working day. August 1, 2020 was a Saturday; therefore, the deadline was extended to Monday, August 3, 2020. Mr. Bradley did not receive the decision in the mail.

IWD issued two additional decisions, both dated August 12, 2021, finding Mr. Bradley was overpaid PEUC benefits, and Federal Pandemic Unemployment Compensation (FPUC) benefits. Mr. Bradley appealed the decisions online on August 31, 2021. The appeal was received by Iowa Workforce Development on August 31, 2021.

The administrative law judge further finds: Mr. Bradley filed an initial claim for Iowa REGULAR UI benefits with an effective date of July 14, 2019. His weekly benefit amount was \$378.00. His base period is from the second quarter of 2018 through the first quarter of 2019. Mr. Bradley's

maximum benefit amount for his July 14, 2019 claim is \$9,828.00. He filed weekly continued claims between July 14, 2019 and May 16, 2020 and exhausted his maximum benefit amount during those weeks. Mr. Bradley reopened his claim on May 17, 2020. His base period on his reopened claim is from the first quarter of 2019 through the fourth quarter of 2019.

Mr. Bradley's base period includes wages from C & C Manufacturing LLC. (first quarter of 2019 and second quarter of 2019), and Weitz Industrial LLC (second quarter of 2019 through fourth quarter of 2019). Mr. Bradley's administrative record establishes that his claim is listed in Group Code 3.

Mr. Bradley's administrative record establishes that Weitz Industrial LLC has reported wages for him in Nebraska. Mr. Ingram's administrative records establish that he is monetarily eligible for regular unemployment insurance benefits in the State of Nebraska.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Bradley's appeal was filed on time.

Iowa Code § 96.6(2) provides, in pertinent part: "[u]nless 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."

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law

judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982). The question in this case thus becomes whether the appellant was deprived of a reasonable opportunity to assert an appeal in a timely fashion? *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973).

Mr. Bradley did not receive the decision. The appeal notice provision was invalid. Mr. Bradley appealed when he received the August 12, 2021 decisions from IWD. Mr. Bradley's appeal was filed on time.

The administrative law judge further concludes: Mr. Bradley is not eligible for federal PEUC at this time because he is monetarily eligible for regular unemployment insurance benefits in the State of Nebraska.

PL 116-136 Sec 2107 provides in pertinent part:

PANDEMIC EMERGENCY UNEMPLOYMENT COMPENSATION.

(2) PROVISIONS OF AGREEMENT. —

Any agreement under paragraph (1) shall provide that the State agency of the State will make payments of pandemic emergency unemployment compensation to individuals who—

(A) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before July 1, 2019);

(B) have no rights to regular compensation with respect to a week under such law **or any other State unemployment compensation law** or to compensation under any other Federal law;

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(D) are able to work, available to work, and actively seeking work.

(emphasis added).

Mr. Bradley credibly testified that he worked for Weitz Industrial LLC., and earned insured wages with that employer. Mr. Bradley's administrative records reflect that he is monetarily eligible for regular unemployment insurance benefits in the State of Nebraska from his wages earned with Weitz Industrial LLC. Mr. Bradley does not meet the eligibility requirements for PEUC benefits at this time as he is monetarily eligible for regular unemployment insurance benefits in the State of Nebraska. PEUC benefits are denied effective May 17, 2020.

DECISION:

Mr. Bradley's appeal was filed on time. The July 22, 2020, (reference 03) unemployment insurance decision is affirmed. Mr. Bradley is not eligible for PEUC benefits on his Iowa claim effective May 17, 2020 because he is monetarily eligible for benefits in the State of Nebraska.

Mr. Bradley may file a claim for regular unemployment insurance benefits in Nebraska based on his Weitz Industrial LLC wages.



Daniel Zeno
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November 8, 2021
Decision Dated and Mailed

dz/scn