

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**ANGELA M DUARTE**

Claimant

**APPEAL NO. 09A-UI-14830-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IA STUDENT LOAN LIQUIDITY CORP**

Employer

**OC: 01/25/09**

**Claimant: Appellant (5)**

Iowa Code Section 96.5(7) – Vacation Pay  
Iowa Code Section 96.6(2) – Appeals  
Iowa Code Section 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

Angela Duarte filed an appeal from a September 24, 2009, reference 03, overpayment decision. That matter has been set for hearing in Appeal Number 09A-UI-14831. The claimant's appeal letter also indicates that she wishes to appeal from an administrative law decision concerning her separation from employer Iowa Student Loan Liquidity Corporation. The present case file has erroneously been set up as an appeal from the May 15, 2009, reference 02, decision regarding claimant's receipt of vacation pay and disqualification for benefits for the week ending February 7, 2009. No hearing is necessary.

**ISSUE:**

Whether an appeal concerning the May 15, 2009, reference 02, vacation pay issue has been erroneously docketed.

Whether the claimant intended to appeal to the Employment Appeal Board from an administrative law judge decision.

**FINDINGS OF FACT:**

The claimant's appeal letter indicates she intended to appeal to the Employment Appeal Board from an administrative law judge decision concerning her separation from employer Iowa Student Loan Liquidity Corporation. That matter concerns the decision entered in Appeal Number 09A-UI-03410-C on April 28, 2009.

The claimant's appeal letter also indicates that she intended to file an appeal from the September 24, 2009, reference 03, Claims Division decision that she was overpaid \$3,130.00 in benefits, based on the administrative law judge decision that disqualified her for benefits based on the separation from employer Iowa Student Loan Liquidity Corporation. That matter is addressed in Appeal Number 09A-UI-14831.

Nowhere in claimant's appeal materials did she suggest she was filing an appeal from the May 15, 2009, reference 02, vacation pay decision.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.6(2) sets forth the procedure for appealing from Claims Division decisions and administrative law judge decisions. Ms. Duarte's appeal from the administrative law judge decision in Appeal Number 09A-UI-03410-C should be set before the Employment Appeal Board. The Appeals Section will forward the appeal from the administrative law judge decision to Employment Appeal Board.

Ms. Duarte's appeal from the reference 03 overpayment decision concerns an appeal from a Claims Division decision. That matter has been appropriately set before an administrative law judge. Ms. Duarte has requested an in-person hearing, so the overpayment case, Appeal Number 09A-UI-14831, will be set for an in-person hearing in Des Moines.

Because the appeal materials omit any indication of an intention to appeal from the May 15, 2009, reference 02, vacation pay decision entered by the Claims Division, the administrative law judge concludes that an appeal was erroneously docketed and set for hearing. The appeal concerning the May 15, 2009, reference 02, decision is dismissed and the May 15, 2009, reference 02, decision concerning vacation pay shall stand.

**DECISION:**

The claimant did not appeal from May 15, 2009, reference 02, decision concerning vacation pay. The appeal set up in that matter is dismissed and the file closed.

The claimant's appeal in 09A-UI-14831, from the September 24, 2009, reference 03, overpayment decision shall go forward with an in-person hearing set in Des Moines. The claimant will receive new notice concerning that hearing.

The claimant's appeal from the administrative law judge decision in Appeal Number 09A-UI-03410-C concerning her separation from the employer will be forwarded to the Employment Appeal Board and addressed by that body.

The telephone hearing previously scheduled for Monday, November 2, 2009 at 10:00 a.m. is canceled.

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James E. Timberland  
Administrative Law Judge

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Decision Dated and Mailed

jet/css