

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**FERNANDO M GONZALEZ**  
Claimant

**APPEAL NO. 14A-UI-11039-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 09/07/14  
Claimant: Appellant (1)**

871 IAC 24.2(4) - Cancellation of Unemployment Insurance Claim

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated October 15, 2014, reference 05, that denied the claimant's request to cancel the claim. A telephone hearing was held on November 13, 2014. The claimant participated in the hearing with the assistance of interpreter, Olga Esparza.

**ISSUE:**

Should the claimant be permitted to cancel the claim for benefits?

**FINDINGS OF FACT:**

The claimant worked for Tyson Fresh Meats Inc. until August 2014. He filed a new claim for unemployment insurance benefits on September 7, 2014.

A monetary record decision was mailed to the claimant on September 8, 2014. In that decision, the claimant was determined eligible for a weekly benefit amount of \$410 and a maximum benefit amount of \$7,808.50. The monetary record decision stated that it would become final unless an appeal was filed within ten days after the decision was mailed.

On October 14, 2014, the claimant requested to have the claim canceled because he wanted to file his claim in Wisconsin not Iowa. The Agency had already issued a disqualification decision by the time the claimant requested that the claim be cancelled.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant filed a timely appeal or request for cancellation of his claim.

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last known address. Iowa Code § 96.6-2. The unemployment insurance rules provide that claimants can cancel their claim for unemployment benefits within the ten-day protest period under certain circumstances,

including when “cancellation would allow the individual to refile at the change of a calendar quarter to obtain an increase in the weekly or maximum benefit amount.” 871 IAC 24.2(4).

In Iowa Admin. Code r. 871-24.2(4)d provides situation where a claim can be cancelled even though the ten-day protest period has expired:

Cancellation of unemployment insurance claim.

d. Other valid reasons for cancellation whether or not ten-day protest period has expired.

(1) The individual has an unexpired unemployment insurance claim in another state and is eligible for a remaining balance of benefits.

(2) The individual received erroneous information regarding entitlement or eligibility to unemployment insurance benefits from an employee of the department.

(3) The individual has an unexpired railroad unemployment insurance claim with a remaining benefit balance which was filed prior to the unemployment insurance claim.

(4) The individual exercises the option to cancel a combined wage claim within the ten days allowed by federal regulation.

(5) The individual has previously filed a military claim in another state or territory. Wages erroneously assigned to Iowa must be deleted and an interstate claim must be filed.

(6) Federal wages have previously been assigned to another state or territory or are assignable to another state or territory under federal regulation. Federal wages erroneously assigned to Iowa must be deleted and the appropriate type of claim filed.

(7) The Iowa wages are erroneous and are deleted and the wages from one other state were used, the claim shall be canceled and the wages returned to the transferring state.

In this case, the claimant was requesting that the claim be cancelled outside the ten-day protest period to file in Wisconsin. There is no evidence that the claimant had a claim established in Wisconsin. None of the reasons listed in Iowa Admin. Code r. 871-24.2(4)d apply in this case.

**DECISION:**

The unemployment insurance decision dated October 15, 2014, reference 05, is affirmed. The claimant's request to cancel the claimant is denied.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css