

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JULIE M RUPERT
Claimant

APPEAL 17A-UI-08989-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

OC: 01/01/17
Claimant: Appellant (4)

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)g – Retroactive Benefits

STATEMENT OF THE CASE:

The claimant filed an appeal from the June 29, 2017, (reference 01), unemployment insurance decision that denied the request for retroactive benefits. After due notice was issued, a telephone conference hearing was scheduled to be held on September 21, 2017. Claimant participated.

ISSUES:

Is the appeal timely?
Should the claimant's request for retroactive benefits be granted for the one-week period ending June 3, 2017?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The unemployment insurance decision was mailed to the appellant's address of record on June 29, 2017. The appellant did not receive the decision. The first notice of disqualification was communication with IWD on August 28, 2017. The appeal was sent the next day.

Claimant filed a claim effective January 1, 2017. She did not file continued claims via the online web application for the three-week period ending June 17, 2017. Claimant filed her continued weekly claim for the week ending June 3, 2017, using the online web application and did not perceive any issue with the filing. Claimant left for an out-of-country trip on Friday, June 9, 2017. When claimant attempted to file her continued weekly claim for that week, she received a message stating there had been an error and she must call the agency. Claimant attempted to call the agency two or three times during her vacation, but only got a voice message and was unable to speak with a representative. When claimant returned from her vacation on June 23, 2017, she contacted the agency immediately. She was informed her continued weekly claim for the week ending June 3, 2017, was not successfully filed. Claimant requested retroactive benefits.

Claimant did not work during the week ending June 3, 2017. She was able to and available for work, conducted her work searches as required, and did not earn any wages or vacation or holiday pay.

Claimant has exhausted her regular unemployment insurance benefits for this claim year. A reference 03 decision found claimant overpaid in the amount of \$464.00 for the one week ending June 24, 2017. That decision has become final.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 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 appellant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed an appeal within a reasonable period of time after discovering the adverse decision. Therefore, the appeal shall be accepted as timely.

For the reasons that follow, the administrative law judge concludes the claimant's request for retroactive benefits is granted.

Iowa Code § 96.6(1) provides:

96.6 Filing — determination — appeal.

1. *Filing*. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

In order to be eligible for weekly benefits, the claimant must file an online web application continued claim or show good cause for the failure to do so to support a request for retroactive benefits. Iowa Admin. Code r. 871-24.2(1)g.

Claimant attempted to file her weekly continued claim for the one week ending June 3, 2017. She was not successful, unbeknownst to her. As soon as she realized there was an issue, she requested retroactive benefits. Claimant's request for retroactive benefits for the one week ending June 3, 2017, is granted.

DECISION:

The June 29, 2017, (reference 01) unemployment insurance decision is modified in favor of appellant. The claimant's request for retroactive benefits is granted. The benefits for the one-week period ending June 3, 2017, should be used to offset the overpayment of benefits in the amount of \$464.00 for the one week ending June 24, 2017.

Christine A. Louis
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Decision Dated and Mailed

cal/scn