

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TAMELIA R SCHROEDER
Claimant

APPEAL NO. 17A-UI-03120-ECT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 10/27/13
Claimant: Appellant (6)**

Iowa Code § 96.3(7) – Overpayment of Benefits
Iowa Code § 96.16(4) – Misrepresentation
Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Admin. Code r. 871-26.4(2) – Basis for Appeal

STATEMENT OF THE CASE:

This matter was erroneously set up as an appeal from the decision issued on August 11, 2014, reference 01, which established an overpayment and assessed a penalty due to misrepresentation. The claimant filed an appeal from another unemployment insurance decision, dated March 16, 2017, reference 03, which notified her that her state income taxes were withheld to pay this established overpayment. The appeal, filed on March 17, 2017, mentioned the state income taxes withholding to pay an overpayment.

ISSUE:

Was this matter erroneously set up as an appeal from the 2014 decision issued by the investigation and recovery unit?

Was the appeal untimely?

FINDINGS OF FACT:

The evidence available in the administrative file shows that the claimant filed an appeal from the recent unemployment insurance decision notifying her that her state income taxes were withheld to pay an established overpayment. That appeal, 17A-UI-03121, was scheduled for a hearing. An ALJ issued a decision on that appeal.

The appeal was filed on March 17, 2017. The deadline to appeal this decision, issued on August 11, 2014, was August 21, 2014.

REASONING AND CONCLUSIONS OF LAW:

An appeal from an unemployment insurance decision should include the grounds upon which it is based. Iowa Admin. Code r. 871-26.4(2). The claimant included the grounds for her appeal from the decision notifying her that her state income taxes were withheld to pay an established

overpayment. The claimant did not include any grounds or reasons for a late appeal from this overpayment decision. The appeal was set up in error.

Furthermore, the appeal is untimely. The decision was issued on August 11, 2014. The appeal deadline was August 21, 2014. The decision includes this statement: "This decision becomes final unless an appeal is postmarked by 08/21/2014, or received by Iowa Workforce Appeal Section by that date." The appeal was dated March 17, 2017.

Iowa Code §96.6(2) requires a claimant to file an appeal of an IWD decision "within ten calendar days after notification was mailed to the claimant's last known address." The Iowa Supreme Court determined that a timely appeal is both mandatory and jurisdictional. *Beardslee v. Iowa Dept. of Job Services*, 276 N.W.2d 373, 377 (Iowa 1979).

The claimant's appeal was dated March 17, 2017. This appeal was untimely. Because the claimant's appeal was untimely, I do not have jurisdiction to consider any objection to the established overpayment.

DECISION:

This matter was erroneously set up as an appeal. The appeal is dismissed. The decision issued on August 11, 2014, reference 01, remains in effect.

Emily Gould Chafa
Unemployment Insurance Appeals Bureau
Iowa Workforce Development

Decision Dated and Mailed

ec/scn