

**IOWA DEPARTMENT OF INSPECTIONS AND APPEALS
ADMINISTRATIVE HEARINGS DIVISION, UI APPEALS BUREAU**

LES L BROWN

Claimant

ADVANCE SERVICES INC

Employer

APPEAL 23A-UI-01532-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/13/22

Claimant: Appellant (6)

Iowa Code § 96.5(3)a – Failure to Accept Work
Iowa Code Ch. 17A – Iowa Administrative Procedure Act
Iowa Code Ch. 96 – Iowa Employment Security Act

STATEMENT OF THE CASE:

The Iowa Department of Inspections and Appeals (DIA) UI Appeals Bureau set up an appeal for the January 6, 2023 (reference 04) unemployment insurance (UI) decision. That decision allowed Mr. Brown REGULAR (state) UI benefits because IWD concluded that the employer's November 23, 2022 offer of work to Mr. Brown in his second week of unemployment did not offer at least 90 percent of his average weekly wage. The employers' appeal letter states it wishes to appeal the statement of charges for the fourth quarter of 2022. This appeal was mistakenly set up.

ISSUES:

Should this appeal be dismissed because it was set up in error?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The employer appealed the statement of charges for the fourth quarter of 2022. The DIA UI Appeals Bureau set up an appeal for the January 6, 2023 (reference 04) unemployment insurance (UI) decision. No party to the January 6, 2023 (reference 04) UI decision filed an appeal to that decision. The DIA UI Appeals Bureau set up an appeal for the January 6, 2023 (reference 04) UI decision in error. The hearing scheduled for March 2, 2023 at 2:00 p.m. should be CANCELLED.

The DIA UI Appeals Bureau will schedule a hearing for the employer's appeal of the statement of charges for the fourth quarter of 2022.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.6(2) provides that a party to an IWD UI decision must appeal that decision within ten days of the mailing of the decision. No party to the January 6, 2023 (reference 04) UI decision filed an appeal to that decision. This appeal was set up in error. The appeal in this matter should be dismissed.

DECISION:

This appeal was set up in error. The employer's appeal in this matter is DISMISSED. The January 6, 2023 (reference 04) UI decision shall remain in full force and effect.

The hearing scheduled for March 2, 2023 at 2:00 p.m. is CANCELLED.



Daniel Zeno
Administrative Law Judge

March 1, 2023
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with this decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to **file a petition for judicial review in District Court** within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
4th Floor – Lucas Building
Des Moines, Iowa 50319
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de **presentar una petición de revisión judicial en el Tribunal de Distrito** dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.