

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

RICHARD S MERDINGER
Claimant

APPEAL NO. 22A-UI-09262-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

GO DADDY SOFTWARE INC
Employer

**OC: 05/09/21
Claimant: Appellant (6)**

Iowa Code Section 96.6 – Aggrieved Party Requirement
Iowa Administrative Code Rule 871-26.8(1) – Dismissal of Appeal, No Aggrieved Party
Iowa Code 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

On April 13, 2022, Richard Merdinger (claimant) filed a late appeal from the August 2, 2021 (reference 01) decision that disqualified him for benefits and that held the employer's account would not be charged for benefits, based on the Benefits Bureau deputy's conclusion the claimant voluntarily quit on May 19, 2021 without good cause attributable to the employer. An appeal hearing was set for May 27, 2022 and the parties were provided appropriate notice of the hearing. The claimant appeared. Shannon Reed appeared on behalf of the employer. Attorney Jeffrey Koncsol appeared on behalf of Iowa Workforce Development. There were three appeal numbers set for a consolidated hearing: 22A-UI-09262-JT-T, 22A-UI-09263-JT-T and 22A-UI-09264-JT-T. In response to the Agency's request, in light of the newly entered reference 04, 05 and 06 decisions, and with the parties' acquiescence, the administrative law judge concluded a hearing was unnecessary. The administrative law judge enters the following decision based on Agency administrative records.

ISSUE:

Whether the claimant continues to be aggrieved by the August 2, 2021 (reference 01) decision.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Iowa Workforce Development has determined that Richard Merdinger, the named claimant in interest, has been the victim of fraud via identity theft. The Agency has concluded Mr. Merdinger did not establish the May 9, 2021 original claim and did not receive benefits disbursed in connection with the claim.

The August 2, 2021 (reference 01) decision disqualified Mr. Merdinger for benefits and held the employer's account would not be charged for benefits, based on the Benefits Bureau deputy's conclusion Mr. Merdinger voluntarily quit on May 19, 2021 without good cause attributable to the employer.

The April 7, 2022 (reference 02) decision held Mr. Merdinger was overpaid \$1,479.00 in regular state benefits for three weeks between May 9, 2021 and May 29, 2021, based on the reference 01 disqualification decision.

The April 7, 2022 (reference 03) decision held Mr. Merdinger was overpaid \$900.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for three weeks between March 9, 2021 and May 29, 2021, based on the reference 01 disqualification decision.

On May 26, 2022, IWD attorney Jeffrey Koncsol emailed the Appeals Bureau a request to cancel the appeal hearing. Mr. Koncsol included the following in the emailed request:

IWD has received additional information in this matter indicating that these overpayments were the result of identity theft.

IWD has subsequently voided the claim and will be voiding REFs 01-03, the decisions that I believe form the underlying bases for this appeal.

The administrative law confirmed through review of Agency records (DBRO) that the May 9, 2021 original claim has indeed been voided.

On May 27, 2022, prior to the hearing set for 1:00 p.m. that day, IWD attorney Jeffrey Koncsol emailed to the undersigned administrative law judge and to the claimant copies of the reference 04, 05 and 06 decisions to be mailed on May 31, 2022. The reference 04 decision states the reference 01 decision "was entered in error and now is declared null & void." The reference 05 decision states the reference 02 decision "was entered in error and now is declared null & void." The reference 06 decision states the reference 03 decision "was entered in error and now is declared null & void."

REASONING AND CONCLUSIONS OF LAW:

The appeal rights and procedures set forth at Iowa Code section 96.6 presuppose and require the existence of an aggrieved party.

Iowa Administrative Code rule 871-26.8(1) provides as follows: "An appeal may be dismissed upon the request of a party or in the agency's discretion when the issue or issues on appeal have been resolved in the appellant's favor."

With the voiding of the claim, and with voiding of the reference 01, 02 and 03 decisions, the claimant has received all available remedy and is no longer aggrieved by the August 2, 2021 (reference 01) decision appealed in the present matter. The Agency's request to dismiss the appeal is GRANTED.

DECISION:

With the voiding of the claim, and with voiding of the reference 01, 02 and 03 decisions, the claimant has received all available remedy and is no longer aggrieved by the reference 01 decision appealed in the present matter. Accordingly, the Agency's request to dismiss the appeal is GRANTED. The appeal in this matter is DISMISSED.



James E. Timberland
Administrative Law Judge

July 27, 2022
Decision Dated and Mailed

jet/mh

APPEAL RIGHTS. If you disagree with the 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 adquiera 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.