

**IN THE COURT OF APPEALS OF IOWA**

No. 2-833 / 11-1691  
Filed October 3, 2012

**CHARLES RICHARDS,**  
Claimant-Appellant,

**vs.**

**EMPLOYMENT APPEAL BOARD,**  
Respondent-Appellee.

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Appeal from the Iowa District Court for Polk County, D.J. Stovall, Judge.

Charles Richards appeals the district court's dismissal of his petition for judicial review of an agency decision for lack of jurisdiction. **AFFIRMED, PENDING MOTION DENIED.**

Charles Richards of Richards Law Office, Des Moines, for appellant.

Richard Autry of Employment Appeal Board, Des Moines, for appellee.

Considered by Eisenhauer, C.J., and Doyle and Tabor, JJ.

**DOYLE, J.**

On May 23, 2011, the Employment Appeal Board (EAB) issued its ruling affirming an administrative law judge's decision denying unemployment insurance benefits to Charles Richards. Richards applied for a rehearing, and the EAB sent him a letter on June 17, acknowledging its receipt of his request. The letter also stated: "If the [EAB] does not act on this request by [July 1, 2011], it is deemed denied by operation of law."

On June 23, the EAB acted on Richards's application, filing its decision denying Richards's request for rehearing. The EAB found its "earlier decision was correct and supported by the evidence." The EAB mailed its decision on the rehearing to Richards the same day, June 23.

On July 29, Richards mailed his petition for judicial review of the agency's ruling to the district court, and the petition was filed with the clerk of district court on August 4. Thereafter, the EAB filed a motion to dismiss Richards's petition because it was not filed within thirty days of the denial of rehearing decision, as required by Iowa Code section 17A.19(3) (2011). In responding, Richards explained he was traveling and not in Iowa from June 15 through August 3, and he mailed his petition on July 29 while he was out of the state. He did not actually receive the EAB's June 23 decision until his return to Des Moines on August 3. He submitted the petition should be deemed timely because it was filed within thirty days of July 1, 2011, the date the EAB indicated Richards's request for rehearing would be deemed denied by operation of law if the EAB did not act upon the request by July 1.

The district court granted the EAB's motion and dismissed Richards's petition because it was not timely filed. The court explained:

Iowa Code section 17A.19(3) specifies that a petition requesting an appeal of an agency decision, i.e., petition for judicial review, must be filed within thirty days after an application has been denied. The thirty-day filing requirement is jurisdictional. [Richards's] petition was filed on August 4, 2011. There are forty-two days between the date of the agency's final decision and the date of the filing of the petition. The court finds that [Richards's] failure to file his petition within the thirty-day time frame is fatal to [Richards's] claims. *Sharp v. Iowa Dep't of Job Serv.*, 492 N.W.2d 668 (Iowa 1992).

Richards now appeals, asserting issues not raised before or decided by the district court. Additionally, we also have before us Richards's motion for leave to file amendments to his final brief to "bring his brief into compliance" with the Iowa Rules of Appellate Procedure and to add additional issues not raised before or decided by the district court.

Our rule is that issues on appeal not raised and decided by the district court are deemed waived. *Meier v. Senecaut*, 641 N.W.2d 532, 537 (Iowa 2002). Because Richards's issues on appeal were not raised and decided by the district court, we deem his issues waived. We deny his motion for modification. We affirm the district court's grant of the EAB's motion and the dismissal of Richards's petition for judicial review.

**AFFIRMED, PENDING MOTION DENIED.**