

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**DENISE M SNOOK**  
Claimant

**APPEAL NO: 10A-UI-13050-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HY-VEE INC**  
Employer

**OC: 07/18/10**  
**Claimant: Appellant (1)**

Section 96.4-3 – Partially Unemployed when Working Part time  
Section 96.6-2 – Timeliness of Appeal

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's August 24, 2010 determination (reference 01) that held the claimant ineligible to receive benefits as of July 18, 2010, because she could not be considered partially unemployed. The claimant did not respond to the hearing notice or participate in the hearing. Darren Casey appeared at the hearing on the employer's behalf. Based on the administrative record and the law, the administrative law judge finds the claimant is not eligible to receive partial unemployment benefits as of July 18, 2010.

**ISSUE:**

Did the claimant file a timely appeal or establish a legal excuse for filing a late appeal?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of July 18, 2010. On August 24, 2010 a representative's determination was mailed to the claimant and employer. The representative concluded the claimant was not eligible to receive benefits as of July 18 because she was not partially unemployed. The determination also informed the parties that the determination was final unless an appeal was filed or postmarked on or before September 3, 2010.

The claimant filed her appeal on September 17, 2010.

**REASONING AND CONCLUSIONS OF LAW:**

Unless the claimant or other interested party, after notification or within ten calendar days after a representative's determination is mailed to the parties' last-known address, files an appeal from the determination, it is final. Benefits shall then be paid or denied in accordance with the representative's determination. Iowa Code § 96.6-2. Pursuant to rules 871 IAC 26.2(96)(1) and 871 IAC 24.35(96)(1), appeals are considered filed when postmarked, if mailed. *Messina v. IDJS*, 341 N.W.2d 52 (Iowa 1983).

The Iowa Supreme Court has ruled that appeals from unemployment insurance determinations must be filed within the time limit set by statute and the administrative law judge has no authority to review a determination if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979); *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979). In this case, the claimant's appeal was filed after the September 3, 2010 deadline for appealing expired.

The claimant did not participate in the hearing and establish a legal excuse for filing a late appeal. The record does not establish her failure to file a timely appeal was due to any Agency error or misinformation or delay or other action of the United States Postal Service, which under 871 IAC 24.35(2) would excuse the delay in filing an appeal. Since the claimant did file a timely appeal or establish a legal excuse for filing a late appeal, the Appeals Section has no legal jurisdiction to make a decision on the merits of her appeal.

**DECISION:**

The representative's August 24, 2010 determination (reference 01) is affirmed. The claimant did not file a timely appeal or establish a legal excuse for filing a late appeal. The Appeals Section has no jurisdiction to address the merits of her appeal. This means the claimant remains ineligible to receive benefits as of July 18, 2010 because she is not partially unemployed for unemployment insurance purposes.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css