

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

NATHAN MEISTER
Claimant

JAXCO LLC
Employer

APPEAL 20A-UI-14278-AW-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Appellant (1)

Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.6(2) – Filing – Timely Appeal
Iowa Admin. Code r. 871-24.35 – Filing

STATEMENT OF THE CASE:

Claimant filed an appeal from the June 18, 2020 (reference 04) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on January 8, 2021, at 8:00 a.m. Claimant participated. Employer did not participate. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant's separation was a discharge for disqualifying job-related misconduct.
Whether claimant filed a timely appeal.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to claimant at his address of record on June 18, 2020. The address was his parent's residence, which he was using as his permanent address while attending school. Claimant received the decision a few weeks after it was mailed.

The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by June 28, 2020. Claimant did not appeal the decision. Claimant appealed a subsequent overpayment decision on November 6, 2020. Claimant's appeal of the overpayment decision was applied to all adverse decisions. Claimant's appeal of the overpayment decision was received by Iowa Workforce Development on November 6, 2020 via facsimile.

Claimant did not read the decision when he received it in the mail. Claimant was confused about the unemployment insurance process. Claimant did not contact Iowa Workforce Development with questions or to determine whether he should file an appeal.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that claimant's appeal was untimely.

Iowa Code § 96.6(2) provides, in pertinent part: "[u]nless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision."

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

Claimant received the decision. Claimant did not appeal the decision. Claimant's failure to submit an appeal was not due to any agency error or misinformation or delay of the United States Postal Service. The appeal was not timely. Therefore, the administrative law judge lacks jurisdiction to make a determination with respect to the nature of the appeal.

DECISION:

Claimant's appeal was not timely. The June 18, 2020 (reference 04) unemployment insurance decision is affirmed. The administrative law judge has no authority to change the decision of the representative.

A handwritten signature in black ink, appearing to read "Adrienne C. Williamson", is positioned above a horizontal line.

Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
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Des Moines, Iowa 50319-0209
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January 25, 2021
Decision Dated and Mailed

acw/scn