

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHERYLE K RAMBO
Claimant

APPEAL NO. 14A-UI-12221-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ADVENTURE LANDS OF AMERICA INC
Employer

OC: 10/26/14
Claimant: Respondent (1)

Section 96.5-2-a – Discharge
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated November 14, 2014, reference 01, that concluded the claimant's discharge was not for work-connected misconduct. A telephone hearing was held on December 15, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Brian Belzer participated in the hearing on behalf of the employer with a witness, Patty Morse. Exhibit A-1 was admitted into evidence at the hearing.

ISSUE:

Was the appeal in this case filed timely?

FINDINGS OF FACT:

An unemployment insurance decision was mailed to the employer's last-known address of record on November 14, 2014. The decision concluded the claimant was eligible for benefits and stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by November 24, 2014.

The employer received the decision within the ten-day period for appealing the decision. The employer filed a written appeal on November 25, 2014, as shown by the postmark on the envelope, which is after the time period for appealing had expired. The appeal was received on November 26, 2014. The payroll director had put the appeal letter in the employer's internal mail to be picked up and delivered to the post office but it was not taken to the post office until November 25.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant filed a timely appeal.

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last-known address. Iowa

Code § 96.6-2. Mailed appeals are considered filed when deposited with the United States Postal Service, as shown by the postmark date. 871 IAC 24.35(1).

The Iowa Supreme Court has ruled that appeals from unemployment insurance decisions must be filed within the time limit set by statute and the administrative law judge has no authority to review a decision 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 employer's appeal was filed after the deadline for appealing expired.

The failure to file a timely appeal was not 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 appeal was not filed timely, there is no jurisdiction to make a decision on the merits of the appeal.

DECISION:

The unemployment insurance decision dated November 14, 2014, reference 01, is affirmed. The appeal in this case was not timely, and the unemployment insurance decision holding the claimant qualified for benefits remains in effect.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs