

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TRAMMELL D BASS
Claimant

APPEAL NO. 14A-UI-12012-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 09/14/14
Claimant: Appellant (2)**

Section 96.4-3 - Able to and Available for Work
Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 3, 2014, reference 05, that concluded he was not available for work. A telephone hearing was held on December 10, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing.

ISSUE:

Did the claimant file a timely appeal?
Was the claimant discharged for work-connected misconduct?

FINDINGS OF FACT:

The claimant filed a new claim for unemployment insurance benefits effective September 14, 2014. Since filing for unemployment insurance benefits, he has been able to work, available for work, and actively seeking work.

On his weekly claim for the week ending September 27, 2014, the claimant mistakenly stated he was not available for work that week, which was not the case. A notice was mailed to the claimant on October 8 asking him about the response he had given for his claim for the week ending September 27, 2014. The claimant did not get the notice because the address was wrong.

An unemployment insurance decision was mailed to the claimant's last-known address of record on November 3, 2014. The decision concluded he was unavailable for work and stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by November 13, 2014.

The claimant never received the decision because it was sent to the wrong address. He went to the Workforce office and found out about the decision and appealed in on November 18, 2014.

REASONING AND CONCLUSIONS OF LAW:

The first 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.

The next question is whether the claimant had a reasonable opportunity to file an appeal in a timely fashion. Hendren v. IESC, 217 N.W.2d 255 (Iowa 1974); Smith v. IESC, 212 N.W.2d 471, 472 (Iowa 1973). The claimant did not have a reasonable opportunity to file a timely appeal because he never received the decision. The appeal is deemed timely.

The issue in this case is whether the claimant is able to work, available for work, and earnestly and actively seeking work as required by the unemployment insurance law in Iowa Code § 96.4-3. The claimant mistakenly responded that he was not available to work.

The claimant is still disqualified based on his separation from employment with Iowa Spring Manufacturing & Sales.

DECISION:

The unemployment insurance decision dated November 3, 2014, reference 05, is reversed. The claimant is not disqualified for being unavailable for work.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs