

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GABRIELLA J DAUBITZ
Claimant

THE UNIVERSITY OF IOWA
Employer

APPEAL 21A-UI-18102-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/19/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit from Employment
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On August 16, 2021, claimant Gabriella J. Daubitz filed an appeal from the October 16, 2020 (reference 02) unemployment insurance decision that denied benefits based on a determination that claimant voluntarily quit her employment with The University of Iowa for personal reasons. The parties were properly notified of the hearing. A telephonic hearing was held at 1:00 p.m. on Tuesday, October 12, 2021. Appeal numbers 21A-UI-18102-LJ-T, 21A-UI-18103-LJ-T, 21A-UI-18104-LJ-T, and 21A-UI-18105-LJ-T were heard together and created one record. The claimant, Gabriella J. Daubitz, participated. The employer, The University of Iowa, participated through Scott Coons, Human Resources Associate. The administrative law judge took official notice of the administrative record.

ISSUE:

Did the claimant file a timely appeal?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision related to claimant's separation from The University of Iowa was mailed to claimant's last known address of record on October 16, 2020. She did receive the decision within ten days, sometime in October 2020. The first sentence of the decision states, "If this decision denies benefits and is not reversed on appeal, it may result in an overpayment which you will be required to repay." The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by October 26, 2020. The appeal was not filed until August 16, 2021, which is after the date noticed on the disqualification decision.

Approximately one month prior to receiving the decision at issue in this case, claimant received an adverse decision related to her separation from another employer. Claimant appealed that decision, and she had an appeal hearing with an administrative law judge on October 16, 2020. During that hearing, claimant told the administrative law judge she "did not file for unemployment against The University of Iowa." Claimant received a decision from the

administrative law judge dated October 19, 2020, that allowed her benefits. Therefore, claimant believed she did not need to appeal the October 16, 2020 (reference 02) decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant failed to file a timely appeal.

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).

Here, the claimant received the decision in the mail and, therefore, had an opportunity to file an appeal prior to the appeal deadline. Claimant's delay was not due to an error or misinformation from the Department or due to delay or other action of the United States Postal Service. No other good cause reason has been established for the delay. While claimant erroneously

believed that her eligibility for benefits based on a separation from one employer meant she was eligible for benefits overall, the administrative law judge finds that no one in the agency told her that or led her to believe that was the case. Claimant's appeal was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

DECISION:

The October 16, 2020 (reference 02) unemployment insurance decision is affirmed. Claimant failed to file a timely appeal. The decision of the representative remains in effect.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

October 18, 2021
Decision Dated and Mailed

lj/scn