

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**KARA MUNRO**  
Claimant

**UREEKA, INC.**  
Employer

**APPEAL 22A-UI-05810-AD-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/31/21  
Claimant: Appellant (2)**

Iowa Code § 96.6(2) – Filing – Timely Appeal  
Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

On March 7, 2022, Kara Munro (claimant/appellant) filed an appeal from the Iowa Workforce Development (“IWD”) decision dated February 10, 2022 (reference 03) that denied unemployment insurance benefits based on a finding that claimant voluntarily left employment on April 30, 2021 without a showing of good cause attributable to employer.

A telephone hearing was held on April 28, 2022. The parties were properly notified of the hearing. Claimant participated personally. Ureeka Inc. (employer/respondent) participated by President Rob Gatto. Official notice was taken of the administrative record.

Claimant submitted three proposed exhibits to the Appeals Bureau the night before the hearing. Claimant did not provide copies of the proposed exhibits to employer. As such those documents were not admitted in this matter.

Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Is the appeal timely?
- II. Was there a disqualifying separation from employment?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds:

Claimant began working for employer in October 2019. Claimant separated from employer effective January 15, 2021. The separation was due to a restructuring and resulted in claimant being permanently laid off.

The Unemployment Insurance Decision was mailed to claimant at the above address on February 10, 2022. That was claimant’s correct address at that time.

The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by February 20, 2022. However, if the due date falls on a Saturday, Sunday or legal holiday, the appeal period is extended to the next working day. Claimant appealed the decision on March 7, 2022.

Claimant did not receive the decision in a timely manner due to being out of town for work from January 27, 2022 until the end of February 2022. There is no one else at claimant's address who could check and alert claimant to important mail received during that time.

The decision was issued approximately eight months after claimant had last filed a weekly claim for benefits and over a year after her separation from employer. Claimant had no reason to expect important correspondence regarding her eligibility for benefits going back over a year would be sent to her during the period she was out of town. Claimant did appeal within ten days of coming into possession of the decision.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant's appeal was timely. The decision dated February 10, 2022 (reference 03) that denied unemployment insurance benefits based on a finding that claimant voluntarily left employment on April 30, 2021 without a showing of good cause attributable to employer is REVERSED.

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)(a) 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 on 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)
  - (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.

There is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and the Administrative Law Judge has no authority to change the decision of representative if a timely appeal is not filed. *Franklin v. Iowa Dept. Job Service*, 277 N.W.2d 877,

881 (Iowa 1979). The ten-day period for appealing an initial determination concerning a claim for benefits has been described as jurisdictional. *Messina v. Iowa Dept. of Job Service*, 341 N.W.2d 52, 55 (Iowa 1983); *Beardslee v. Iowa Dept. Job Service*, 276 N.W.2d 373 (Iowa 1979). The only basis for changing the ten-day period would be where notice to the appealing party was constitutionally invalid. *E.g. Beardslee v. Iowa Dept. Job Service*, 276 N.W.2d 373, 377 (Iowa 1979). The question in such cases becomes whether the appellant was deprived of a reasonable opportunity to assert an appeal in a timely fashion. *Hendren v. Iowa Employment Sec. Commission*, 217 N.W.2d 255 (Iowa 1974); *Smith v. Iowa Employment Sec. Commission*, 212 N.W.2d 471 (Iowa 1973). The question of whether the Claimant has been denied a reasonable opportunity to assert an appeal is also informed by rule 871-24.35(2) which states that "the submission of any ...appeal...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."

Claimant was out of town for work when the decision was issued. Claimant was delayed in appealing for this reason. Claimant would have been wise to have made arrangements for someone else to check for important mail received at her home address during this time. However, claimant had no reason to expect important and extremely time-sensitive correspondence regarding her eligibility for benefits from over a year ago would be sent to her during the period she was out of town. Furthermore, claimant did appeal within ten days of coming into possession of the decision. Under the circumstances the administrative law judge finds there is good cause for the delay in appealing and the appeal is therefore accepted as timely. As such the administrative law judge has jurisdiction to address the underlying issues.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Iowa Admin. Code r. 871-24.32 provides in relevant part:

Discharge for misconduct.

(1) Definition.

a. "Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency,

unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

This definition has been accepted by the Iowa Supreme Court as accurately reflecting the intent of the legislature. *Huntoon v. Iowa Dep't of Job Serv.*, 275 N.W.2d 445, 448 (Iowa 1979).

Claimant was involuntarily separated from employer effective January 15, 2021. The separation was due to a restructuring and resulted in claimant being permanently laid off. The separation was not due to misconduct and as such it was not disqualifying. Benefits are therefore allowed, provided claimant is not otherwise disqualified or ineligible.

**DECISION:**

The administrative law judge concludes the claimant's appeal was timely. The decision dated February 10, 2022 (reference 03) that denied unemployment insurance benefits based on a finding that claimant voluntarily left employment on April 30, 2021 without a showing of good cause attributable to employer is REVERSED. The separation from employment was not disqualifying. Benefits are allowed, provided claimant is not otherwise disqualified or ineligible. Employer's account is subject to charge.



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Andrew B. Duffelmeyer  
Administrative Law Judge

May 2, 2022  
Decision Dated and Mailed

abd/abd