

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

LEANNA BENDER
Claimant

APPEAL 21A-UI-18438-ED-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

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

Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On August 19, 2021, the claimant filed an appeal from the April 20, 2021, (reference 01) unemployment insurance decision. After due notice was issued, a hearing was held by telephone conference call on October 12, 2021. The claimant participated personally.

ISSUE:

Is the claimant's appeal timely?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The claimant's notice of decision was mailed to claimant's address of record on April 20, 2021. The notice of decision contains a warning that the appeal is due ten days from the initial notice date and gave a response deadline of April 30, 2021. The claimant filed its appeal on August 19, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that claimant has not filed a timely appeal by the Iowa Employment Security Law.

Iowa Code § 96.6(2) provides in pertinent part:

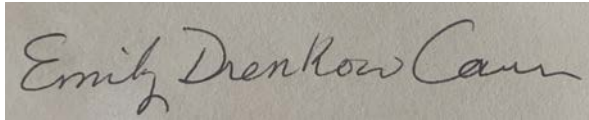
2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant.

Another portion of this same Code section dealing with timeliness of an appeal from a representative's decision states that such an appeal must be filed within ten days after notification of that decision was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court held that this statute prescribing the time for notice of appeal clearly limits the time to do so, and that compliance with the appeal

notice provision is mandatory and jurisdictional. *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979). In this case, the claimant received the April 20, 2021 decision within ten days of its mailing. The claimant had a reasonable opportunity to file its appeal. For some, unknown reason, the claimant did not file its appeal until August 19, 2021. Therefore, the appeal shall not be accepted as timely.

DECISION:

The April 20, 2021, (reference 01) unemployment insurance decision is affirmed. The claimant has not filed a timely appeal.

A rectangular box containing a handwritten signature in cursive script that reads "Emily Drenkow Carr".

Emily Drenkow Carr
Administrative Law Judge

October 15, 2021
Decision Dated and Mailed

ed/scn