

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JODI GEELS**

Claimant

**IOWA CITY COMMUNITY SCHOOL DIST**

Employer

**APPEAL 19A-UI-08050-JC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 09/15/19**

**Claimant: Appellant (2)**

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Iowa Code § 96.5(1) – Voluntary Quitting

Iowa Admin. Code r. 871-24.26(22) – Voluntary Quitting – Specific Period of Time

Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant/appellant, Jodi Geels, filed an appeal from the October 3, 2019 (reference 02) Iowa Workforce Development (“IWD”) unemployment insurance decision which denied unemployment insurance benefits. The parties were properly notified about the hearing. A telephone hearing was held on November 5, 2019. The hearing was held jointly with 19A-UI-08051-JC-T. The claimant participated personally. The employer did not respond to the notice of hearing to furnish a phone number with the Appeals Bureau and did not participate in the hearing.

The administrative law judge took official notice of the administrative records. Department Exhibit D-1 was admitted. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUES:**

Is the appeal timely?

Was the claimant separated from employment for a reason that disqualifies her from receiving unemployment insurance benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was employed full-time as a principal secretary and was separated from employment on May 24, 2019 when the school year ended. The claimant was hired for a specific period of time (180 days) and completed the work assignment. The claimant applied and interviewed for jobs over the summer, but was not offered new employment or another contract for the 2019-2020 school year as a principal secretary.

An initial unemployment insurance decision (Reference 02) resulting in a disqualification of benefits was mailed to the claimant's last known address of record on October 3, 2019. The

decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by October 13, 2019. Because October 13, 2019 was a Sunday, the final day to appeal was extended to October 14, 2019. The claimant received the decision within the appeal period. On or around October 7, 2019, the claimant called IWD for guidance about the decision because this employer was not her last employer. She was given incorrect guidance about the initial decision by the representative, which delayed her filing her appeal. She followed up with IWD and learned she was given incorrect advice about the decision. The appeal was filed on October 16, 2019 (Department Exhibit D-1).

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

**For the reasons that follow, the administrative law judge concludes the claimant filed a timely appeal.**

Iowa Code section 96.6(2) provides, in pertinent part:

Filing – determination – appeal.

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless 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(2) provides:

Date of submission and extension of time for payments and notices.

(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.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

b. The division shall designate personnel who are to decide whether an extension of time shall be granted.

c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the department after considering the circumstances in the case.

d. If submission is not considered timely, although the interested party contends that the delay was due to division error or misinformation or delay or other action of the United States postal service, the division shall issue an appealable decision to the interested party.

The ten calendar days for appeal begins running on the mailing date. The "decision date" found in the upper right-hand portion of the representative's decision, unless otherwise corrected immediately below that entry, is presumptive evidence of the date of mailing. *Gaskins v. Unempl. Comp. Bd. of Rev.*, 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Board of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976).

The record in this case shows that more than ten calendar days elapsed between the mailing date and the date this appeal was filed. 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. Iowa Dep't of Job Serv.*, 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. Iowa Dep't of Job Serv.*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott*, 319 N.W.2d 244, 247 (Iowa 1982). The question in this case thus becomes whether the appellant was deprived of a reasonable opportunity to assert an appeal in a timely fashion. *Hendren v. Iowa Emp't Sec. Comm'n*, 217 N.W.2d 255 (Iowa 1974); *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973).

In this case, the claimant made a good faith effort to receive guidance from IWD about the initial decision within the prescribed appeal period. The claimant credibly testified she relied upon incorrect information given by an IWD representative, which caused the delay in filing in the appeal. The administrative law judge concludes that failure to follow the clear written instructions to file a timely appeal within the time prescribed by the Iowa Employment Security Law was *due Agency error or misinformation or delay or other action of the United States Postal Service* pursuant to Iowa Admin. Code r. 871-24.35(2). Accordingly, the appeal shall be accepted as timely.

**For the reasons that follow, the administrative law judge concludes the claimant's separation was not the result of a disqualifying reason. Benefits are allowed.**

An unemployed person who meets the basic eligibility criteria receives benefits unless they are disqualified for some reason. Iowa Code § 96.4. Generally, disqualification from benefits is based on three provisions of the unemployment insurance law that disqualify claimants until they have been reemployed and they have been reemployed and have been paid wages for insured work equal to ten times their weekly benefit amount. An individual is subject to such a disqualification if the individual (1) "has left work voluntarily without good cause attributable to the individual's employer" Iowa Code § 96.5(1) or (2) is discharged for work –connected misconduct, Iowa Code § 96.5(2) a, or (3) fails to accept suitable work without good cause, Iowa Code § 96.5(3).

Iowa Code section 96.5(1) provides:

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

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Admin. Code r. 871-24.26(22) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

In this case, the claimant accepted the 180-day contract, and worked until the position came to an end on May 24, 2019, when the contract had been fulfilled and the employment came to an end by the terms of the original agreement of hire. There was no more work for the claimant. Inasmuch as the claimant completed the contract or terms of hire with the employer as contemplated, no disqualification is imposed. Benefits are allowed, provided she is otherwise eligible.

**DECISION:**

The October 3, 2019 (reference 02) initial decision is reversed. The claimant filed a timely appeal. The claimant's separation from employment was for no disqualifying reason. Benefits are allowed, provided she is otherwise eligible.

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Jennifer L. Beckman  
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Decision Dated and Mailed

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