

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ALMETHA S MCCOLLINS**  
Claimant

**APPEAL 21A-UI-22934-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SEDONA STAFFING INC**  
Employer

**OC: 03/22/20**  
**Claimant: Appellant (1)**

Iowa Code §96.6(2) – Timely Appeal  
Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quit  
Iowa Code § 96.5(1)j – Voluntary Quitting – Temporary Employment

**STATEMENT OF THE CASE:**

Almetha S Collins, the claimant/appellant, filed an appeal from the December 8, 2020, (reference 02) unemployment insurance (UI) decision that denied REGULAR UI benefits based on an October 24, 2019 discharge from work. The parties were properly notified of the hearing. A telephone hearing was held on December 9, 2021. Ms. McCollins participate and testified. The employer participated through Colleen McGuinty, unemployment insurance benefits administrator. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Is Ms. McCollins' appeal filed on time?

Was Ms. McCollins discharged for disqualifying, job-related misconduct, or did she quit by not reporting for an additional work assignment within three business days of the end of the last assignment?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Ms. McCollins at the correct address on December 8, 2020. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development (IWD) Appeals Section by December 18, 2020.

Ms. McCollins received the decision in the mail. Ms. McCollins contacted IWD because she was not working for this employer when she applied for benefits. Ms. McCollins did not appeal the reference 02 decision.

IWD issued four additional decisions finding Ms. McCollins was overpaid REGULAR UI benefits, Pandemic Emergency Unemployment Compensation (PEUC) benefits, Federal Pandemic Unemployment Compensation (FPUC) benefits, and Lost Wage Assistance Payments (LWAP) benefits. Ms. McCollins received at least one of those decisions. Ms. McCollins filed an appeal

via fax on October 13, 2021. The appeal was received by Iowa Workforce Development on October 13, 2021. IWD set up appeals for the four overpayment decisions and the December 8, 2020, (reference 02) decision.

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

For the reasons that follow, the administrative law judge concludes Ms. McCollins' appeal of the reference 02 decision was not filed on time.

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).

Ms. McCollins received the decision in the mail before the deadline and, therefore, could have filed an appeal prior to the appeal deadline. The notice provision of the decision was valid. Ms. McCollins' delay in filing his appeal 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 in filing her appeal before the deadline. Ms. McCollins' appeal of the reference 02 decision was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

**DECISION:**

Ms. McCollins' appeal of the reference 02 decision was not filed on time. The December 8, 2020, (reference 02) decision is affirmed.



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Daniel Zeno  
Administrative Law Judge  
Iowa Workforce Development  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax 515-478-3528

January 12, 2022

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Decision Dated and Mailed

dz/kmj

**NOTE TO MS. MCCOLLINS:**

- If you were unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA) benefits. **You must apply for PUA benefits to determine your eligibility under the program.** For more information on how to apply for PUA, go to <https://www.iowaworkforcedevelopment.gov/pua-information>.
- **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**
- Governor Reynolds ended Iowa's participation in federal pandemic-related unemployment benefit programs, including the PUA program, effective June 12, 2021. **You can still apply for PUA benefits at the link above if your initial claim for benefits was filed before June 12, 2021.** Your initial claim for benefits was filed on March 22, 2020.