

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TAYLOR M STIERMAN
Claimant

**DUBUQUE COMMUNITY SCHOOL
DISTRICT**
Employer

**APPEAL 20A-UI-15263-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 03/15/20
Claimant: Appellant (4)**

Iowa Code Chapter 95 – Requalification
Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.6(2) – Filing – Timely Appeal
Iowa Admin. Code r. 871-24.35 – Filing

STATEMENT OF THE CASE:

Claimant filed an appeal from the May 27, 2020 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on January 25, 2021, at 8:00 a.m. Claimant participated. Employer participated through Mindy Klein, Payroll Specialist. Employer’s Exhibit 1 was admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant has requalified for benefits since the separation from this employer.
Whether claimant filed a timely appeal.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to claimant at the correct address on May 27, 2020. Claimant did not receive the decision. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by June 6, 2020. Claimant learned of the decision upon receiving subsequent overpayment decisions. Claimant appealed the decision and the overpayment decisions online on November 7, 2020. Iowa Workforce Development received claimant’s appeal on November 7, 2020.

Having reviewed all of the evidence in the record, the administrative law judge further finds: Claimant separated from employer in June 2019. Claimant earned more than ten times her weekly benefit amount between her separation from employer and filing her initial claim effective March 15, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that claimant's appeal was timely.

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).

Claimant did not receive the decision. Therefore, the notice provisions of the decision were invalid. Claimant's failure to submit the appeal prior to the appeal deadline was due to delay of the United States Postal Service. Claimant's appeal is considered timely.

The next issue to be determined is whether claimant is eligible for benefits. For the reasons that follow, the administrative law judge concludes claimant has requalified for benefits since separating from this employer.

Iowa Code section 96.5(1)g provides:

An individual shall be disqualified for benefits:

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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Based upon information contained in the administrative record, the claimant has requalified for benefits since separating from this employer. Accordingly, benefits are allowed and the account of the employer (account number 101899-000) shall not be charged.

DECISION:

Claimant's appeal was timely. The May 27, 2020 (reference 02) unemployment insurance decision is modified in favor of appellant. Claimant has requalified for benefits since the separation. Benefits are allowed provided claimant is otherwise eligible. Employer's account (number 101899-000) shall not be charged.



Adrienne C. Williamson
Administrative Law Judge
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February 10, 2021
Decision Dated and Mailed

acw/kmj