

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALEXIS A AMES
Claimant

HELLMAN DQU INC
Employer

APPEAL 21A-UI-16796-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/03/19
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

STATEMENT OF THE CASE:

Alexis A Ames, the claimant/appellant, filed an appeal from the February 18, 2021, (reference 13) unemployment insurance decision that concluded she was not eligible for REGULAR unemployment insurance benefits due to a voluntary quit because of pregnancy. The parties were properly notified of the hearing. A telephone hearing was held on October 15, 2021. Ms. Ames participated and testified. The employer participated through Ronald Hellman, manager. The administrative law judge took official notice of the administrative record.

ISSUES:

Is Ms. Ames' appeal filed on time?
Did Ms. Ames voluntarily quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Ms. Ames at the correct address on February 18, 2021. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development (IWD) Appeals Section by February 28, 2021. If the date falls on a Saturday, Sunday, or legal holiday, the appeal period is extended to the next working day. February 28, 2021 was a Sunday; therefore, the deadline was extended to Monday, March 1, 2021.

Ms. Ames received the decision in the mail. Ms. Ames did not check her mail often because she was working and dealing with significant housing issues. IWD issued several additional decisions, including decisions finding Ms. Ames was overpaid benefits. Ms. Ames received at least one of those decisions in the mail.

Ms. Ames filed an appeal via letter, which did not include a postmark. The appeal was received by Iowa Workforce Development on April 22, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the Ms. Ames' appeal of the February 18, 2021, (reference 13) 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. Ames 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. Ames' delay in filing her 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. Ames' appeal of the reference 13 decision was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

DECISION:

Ms. Ames' appeal of the February 18, 2021, (reference 13) decision was not filed on time. The February 18, 2021, (reference 13) decision is affirmed.



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

October 22, 2021
Decision Dated and Mailed

dz/kmj