

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**NATALIE PREVO**

Claimant

**WILLIAMS-SONOMA STORES INC**

Employer

**APPEAL 21A-UI-14215-DZ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20**

**Claimant: Appellant (1)**

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Iowa Code § 96.6(2) – Timely Appeal  
Iowa Admin. Code r. 871-24.23(26) – Same Hours and Wages  
Iowa Code § 96.1A(37) – Total and Partial Unemployment  
Iowa Code § 96.7(2)a(2) – Same Base Period Employment  
Iowa Code §96.4(3) – Able to and Available for Work

**STATEMENT OF THE CASE:**

Natalie Prevo, the claimant/appellant, filed an appeal from the March 16, 2021, (reference 01) unemployment insurance decision that denied REGULAR unemployment insurance benefits. Iowa Workforce Development mailed a notice of hearing to the parties' last known addresses of record. A telephone hearing was held on August 17, 2021. Ms. Prevo participated and testified. The employer did not register for the hearing and did not participate. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Is Ms. Prevo's appeal filed on time?  
Is Ms. Prevo partially unemployed and able to and available for work?  
If so, is the employer's account subject to charge?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Ms. Prevo at the correct address on March 16, 2021. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development (IWD) Appeals Section by March 26, 2021.

Ms. Prevo received the decision in the mail before the deadline. She wanted to talk with someone in-person about the decision and her unemployment insurance case so she printed out the decision and other documents she received from IWD. Due to her work schedule, Ms. Prevo was not able to go to an IWD office as soon as she received the decision. Sometime during the first week of April 2021, Ms. Prevo went to the Iowa Works office in-person. An IWD representative told Ms. Prevo that no one would be able to go through her documents with her in-person, and that IWD would contact her. Ms. Prevo waited but no one from IWD contacted her. Ms. Prevo called IWD several times and received conflicting information. Ms. Prevo

decided to send IWD an email explaining her situation and asking her questions. Ms. Prevo did that, and thereby filed an appeal via email on June 18, 2021. The appeal was received by Iowa Workforce Development on June 18, 2021.

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

For the reasons that follow, the administrative law judge concludes the Ms. Prevo's appeal 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. Prevo 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. Prevo's delay in filing her appeal before the deadline 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. Prevo's appeal was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

**DECISION:**

Ms. Prevo's appeal was not filed on time. The March 16, 2021, (reference 01) decision is affirmed.



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Daniel Zeno  
Administrative Law Judge  
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Iowa Workforce Development  
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August 23, 2021  
Decision Dated and Mailed

dz/mh