

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

ANGELA J VOCKINGS

Claimant

APPEAL NO: 14A-UI-01216-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CATHOLIC HEALTH INITIATIVES - IOWA

Employer

OC: 12/15/13

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

Iowa Code § 96.6(2) – Timely Appeal

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's January 17, 2014 determination (reference 02) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant participated at the February 24 hearing. The employer did not respond to the hearing notice or participate at the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant did not file a timely appeal.

ISSUE:

Did the claimant file a timely appeal or establish a legal excuse for filing a late appeal?

FINDINGS OF FACT:

After the claimant's employment ended, she established a claim for benefits during the week of December 15, 2013. A determination was mailed to the claimant and employer on January 17, 2014. The determination informed the parties the claimant was not eligible to receive benefits and an appeal had to be filed or postmarked on or before January 27, 2014.

The claimant was confused when she received this decision and another determination issued that same day that held she was eligible to receive benefits, but her benefits would be reduced by the workers' compensation benefits she received. The records indicate on January 17 a summary letter was sent to the claimant informing her that she had received several determinations, but she was disqualified from receiving benefits as of December 15, 2013.

The claimant received the January 17 determination on or before January 24, 2014. The claimant did not go to her local Workforce office until February 4 to get her questions answered. She filed her appeal on February 4, 2014.

REASONING AND CONCLUSIONS OF LAW:

The law states that an unemployment insurance determination is final unless a party appeals the determination within ten days after the determination was mailed to the party's last known address. Iowa Code § 96.6(2). The Iowa Supreme Court has ruled that appeals must be filed within the time limit set by statute and the administrative law judge has no authority to review a decision if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979); *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979). In this case, the appeal was filed after the January 27, 2014 deadline for appealing expired.

The next question is whether the claimant had a reasonable opportunity to file a timely appeal. *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant received the January 17 determination before January 27, 2014. She had a reasonable opportunity to file a timely appeal but did not.

The claimant's failure to file a timely appeal was not due to any Agency error or misinformation or delay or other action of the United States Postal Service, which under 871 IAC 24.35(2) would excuse the delay in filing an appeal. The claimant did not establish a legal excuse for filing a late appeal. The Appeals Section does not have any legal authority to make a decision on the merits of the appeal. This means the January 17 determination cannot be changed and the claimant remains disqualified from receiving benefits.

DECISION:

The representative's January 17, 2014 determination (reference 02) is affirmed. The claimant did not file a timely appeal or establish a legal excuse for filing a late appeal. The Appeals Bureau does not have any jurisdiction to address the merits of the claimant's appeal. This means the determination cannot be changed and the claimant remains disqualified from receiving benefits as of December 15, 2013. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs