

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WARFIELD EDWARDS

Claimant

APPEAL NO. 24A-UI-04467-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 06/19/22
Claimant: Appellant (1)**

Iowa Code Section 96.6(2) – Timeliness of Appeal
Iowa Code Section 96.4(3) – Able & Available, Work Search Requirement

STATEMENT OF THE CASE:

On May 6, 2024, Warfield Edwards (claimant) filed a late appeal from the December 19, 2023 (reference 13) decision that held Mr. Edwards was overpaid \$531.00 in benefits for the week that ended January 28, 2023, due to an October 31, 2023 decision that denied benefits for that week. After due notice was issued, a hearing was held on May 22, 2024. Mr. Edwards participated. Iowa Workforce Development did not comply with the hearing notice instructions to call the designated toll-free number at the time of the hearing and did not participate. There were nine appeal numbers set for a consolidated hearing: 24AUI04459JTT, 24AUI04460JTT, 24AUI04461JTT, 24AUI04462JTT, 24AUI04463JTT, 24AUI04464JTT, 24AUI04465JTT, 24AUI04466JTT, and 24AUI04467JTT. Exhibit A was received into evidence. The administrative law judge took official notice of the following agency administrative records: the reference 01 and 06 through 13 decisions, DBRO, KCCO, NMRO and KLOG.

ISSUE:

Whether the appeal was timely. Whether there is good cause to treat the appeal as timely.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Warfield Edwards (claimant) established an original claim for benefits that was effective June 19, 2022 and an “additional claim” that was effective November 20, 2022. Mr. Edwards has at all relevant times maintained a permanent address in Talladega, Alabama and provided that address to Iowa Workforce Development as the address to which unemployment insurance correspondence should be directed.

Mr. Edwards has at all relevant times been a dues-paying union plumber affiliated with Local 91 in Alabama. Mr. Edwards has at all relevant times obtained work exclusively through the union local. On June 28, 2022, Iowa Workforce Development documented Mr. Edwards’ group code as group 5 to reflect Mr. Edwards’ affiliation with the trade union.

In connection with the “additional claim” for benefits that was effective November 20, 2022, Iowa Workforce Development recategorized Mr. Edwards as a group 6 claimant, one who relies upon submission of resumes and networking to obtain employment.

On November 30, 2022, Iowa Workforce Development mailed the November 30, 2022 (reference 01) decision to Mr. Edwards’ address of record. The reference 01 decision reminded Mr. Edwards that he was required to engage in four reemployment activities, including three job applications, each benefit week. The decision warned that Mr. Edwards could be disqualified for benefits for future weeks in which he did not meet the reemployment activities requirement. The decision cited the claim for the week ending November 26, 2022 as the basis for the work search warning decision. The work search warning was based on Iowa Workforce Development categorizing Mr. Edwards as a group 6 claimant. The United States Postal Service (USPS) delivered the reference 01 decision to Mr. Edwards’ address of record in a timely manner, prior to the deadline for appeal. The decision stated that the decision would become final unless an appeal was postmarked by December 10, 2022 or was received by the Appeals Section by that date. The decision also stated that if the deadline for appeal fell on a Saturday, Sunday or legal holiday, the deadline would be extended to the next working day. December 10, 2022 was a Saturday and the next working day was Monday, December 12, 2022. The reference 01 decision included clear and concise instructions for filing an appeal. The decision also included an IWD customer service phone number Mr. Edwards could use if he had questions regarding the decision. Mr. Edwards did not take steps to file an appeal from the reference 01 decision by the extended appeal deadline.

On October 31, 2023, Iowa Workforce Development mailed four disqualification decisions to Mr. Edwards at his address of record. The reference 06 decision denied benefits for the week that ended January 7, 2023. The reference 07 decision denied benefits for the week that ended January 14, 2023. The reference 08 decision denied benefits for the week that ended January 21, 2023. The reference 09 decision denied benefits for the week that ended January 28, 2023. Each disqualification decision stated that Mr. Edwards did not meet the reemployment activities requirement during the affected week and had earlier been warned about the reemployment requirement. The United States Postal Service delivered the decisions to Mr. Edwards’ address of record in a timely manner, prior to the deadline for appeal. Each decision stated the decision would become final unless an appeal was postmarked by November 10, 2023 or was received by the Appeals Section by that date. Each decision stated that if the deadline for appeal fell on a Saturday, Sunday or legal holiday, the deadline would be extended to the next working day. November 10, 2023 was a legal holiday, Veterans’ Day, and the next working day was Monday, November 13, 2023. Each decision included clear and concise instructions for filing an appeal. Each decision also included an IWD customer service phone number Mr. Edwards could use if he had questions regarding the decision. Mr. Edwards did not take steps to file an appeal from any of the four decisions by the extended appeal deadline.

On December 19, 2023, Iowa Workforce Development mailed four overpayment decisions to Mr. Edwards at his address of record. Each decision stated that Mr. Edwards had been overpaid benefits for a week in January 2023 due to an October 31, 2023 decision that denied benefits for the week. The reference 10 decision held Mr. Edwards was overpaid \$531.00 for the week that ended January 7, 2023. The reference 11 decision held Mr. Edwards was overpaid \$531.00 for the week that ended January 14, 2023. The reference 12 decision held Mr. Edwards was overpaid \$531.00 in benefits for the week that ended January 21, 2023. The reference 13 decision held Mr. Edwards was overpaid \$531.00 in benefits for the week that ended January 28, 2023. The United States Postal Service delivered the overpayment

decisions to Mr. Edwards' address of record in a timely manner, prior to the deadline for appeal. Each decision stated the decision would become final unless an appeal was postmarked by December 29, 2023 or was received by the Appeals Section by that date. Each decision included clear and concise instructions for filing an appeal. Each decision also included an IWD customer service phone number Mr. Edwards could use if he had questions regarding the decision. Mr. Edwards did not take steps to file an appeal from any of the four overpayment decisions by the appeal deadline.

After Iowa Workforce Development entered the overpayment decisions, IWD began to send Overpayment Statements to Mr. Edwards. The Overpayment Statements directed Mr. Edwards to contact IWD to arrangement for repayment of the overpaid benefits. Mr. Edwards contacted the IWD Collections Bureau in response to receiving an Overpayment Statement. This led to Mr. Edwards filing an appeal from the overpayment decisions.

On May 6, 2024, Mr. Edwards completed and faxed an appeal from the reference 10, 11, 12 and 13 overpayment decisions. Mr. Edwards directed the appeal to the Employment Appeal Board, rather than to the Appeals Bureau. The Employment Appeal Board received the faxed appeal on May 6, 2024 and forwarded it to the Appeals Bureau. The Appeals Bureau docketed a May 6, 2024 appeal and treated is as an appeal from the reference 01 decision and the reference 06 through 13 decisions.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The ten-day deadline for appeal begins to run on the date Workforce Development mails the decision to the parties. The "decision date" found in the upper right-hand portion of the Agency representative's decision, unless otherwise corrected immediately below that entry, is presumptive evidence of the date of mailing. *Gaskins v. Unempl. Comp. Bd. of Rev.*, 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Board of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976).

An appeal submitted by mail is deemed filed 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 was 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. See Iowa Administrative Code rule 87124.35(1)(a). See also *Messina v. IDJS*, 341 N.W.2d 52 (Iowa 1983). An appeal submitted by any other means is deemed filed on the date it is received by the Unemployment Insurance Division of Iowa Workforce Development. See Iowa Administrative Code rule 87124.35(1)(b).

The evidence in the record establishes that more than ten calendar days elapsed between the mailing date and the date this appeal was filed. 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). One question in this case thus becomes whether the appellant was deprived of a reasonable opportunity to assert an appeal in a timely fashion. *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973).

No submission shall be considered timely if the delay in filing was unreasonable, as determined by the division after considering the circumstances in the case. See Iowa Administrative Code rule 87124.35(2)(c).

The evidence in the record establishes an untimely appeal from the December 19, 2023 (reference 13) overpayment decision. The evidence establishes that Mr. Edwards received the decision in a timely manner and had a reasonable opportunity to file an appeal by the extended appeal deadline. Mr. Edwards unreasonably delayed filing the appeal to May 6, 2024. The late filing of the appeal was attributable to Mr. Edwards' decision to delay action on the matter to May 2024. The late filing of the appeal was not caused by Iowa Workforce Development or the United States Postal Service. There is not good cause to treat the late appeal as a timely appeal. See Iowa Administrative Code rule 87124.35(2). Because the appeal was untimely, the administrative law judge lacks jurisdiction to disturb the decision from which Mr. Edwards appeals in the present matter. See *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979) and *Franklin v. IDJS*, 277 N.W.2d 877 (Iowa 1979).

DECISION:

The claimant's appeal from the December 19, 2023 (reference 13) overpayment decision was untimely. The decision that held the claimant was overpaid \$531.00 in benefits for the week that ended January 28, 2023 remains in effect.

A rectangular box containing a handwritten signature in black ink that reads "James E. Timberland".

James E. Timberland
Administrative Law Judge

May 24, 2024
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.