

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

AMY S EDIE
Claimant

APPEAL NO. 15A-UI-02352-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

DENVER SUNSET HOME INC
Employer

OC: 01/25/15
Claimant: Appellant (1)

Section 96.5(1) – Voluntary Quit
Section 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed an appeal from a representative's decision dated February 6, 2015 (reference 01) which denied unemployment insurance benefits. After due notice was provided, a telephone hearing was held on March 25, 2015. The claimant participated. The employer participated by Ms. Kelly Smith, Director of Nursing.

ISSUE:

At issue in this matter is whether the appeal filed herein was timely.

FINDINGS OF FACT:

The administrative law judge, having considered all of the evidence in the record, finds that: A disqualification decision was mailed to the claimant's last-known address of record on February 6, 2015. The claimant received the decision. The decision contained a warning that any appeal must be postmarked, faxed, or received by the Appeals Section by February 16, 2015. The appeal was not filed until February 20, 2015; which is after the date noticed on the disqualification decision. The claimant received two adjudicator's determinations during this period of time. Each adjudicator's determination referenced the employer that the decision was referring to as well as stating other identifying factors to assist the recipient in determining the issue, the separation date, and the employer involved in the determination. The adjudicator's determination sent to the claimant on February 6, 2015 (reference 01) specifically referenced Denver Sunset Home Inc., the date of the claimant's separation from work, and stated that the claimant had voluntarily quit work on a specified date. In addition to informing the recipient of the due date for filing an appeal, the determination also provided a telephone number for the recipient to call if the recipient had any questions regarding the adjudicator's determination. Ms. Smith noted that each determination referenced a different employer. The claimant chose to file her appeal "online" and did not do so until after the ten-day appeal period had elapsed.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.6-2 provides in pertinent part:

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 administrative law judge concludes the claimant failed to affect a timely appeal within the time. This was not due to any Agency error or misinformation or delay, or other action of the United States Postal Service pursuant to 871 IAC 24.35(2). The administrative law judge further concludes that the claimant has failed to timely appeal pursuant to Iowa Code Section 96.6(2), and the administrative law judge lacks jurisdiction to make a determination with respect to the nature of the claimant's termination of employment. See Beardslee v. IDJS, 276 N.W.2d 373 (Iowa 1979); Franklin v. IDJS, 277 N.W.2d 877 (Iowa 1979), and Pepsi-Cola Bottling Company v. Employment Appeal Board, 465 N.W.2d 674 (Iowa App. 1990).

DECISION:

The decision of the representative dated February 6, 2015 (reference 01) is affirmed. The appeal in this case is not timely. The claimant has established no good cause reason for failing to file a timely appeal in this matter. The decision of the representative shall stand and remain in full force and effect.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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