

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

SAMUEL L BELLMON
Claimant

APPEAL NO: 13A-UI-08409-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TYSON FRESH MEATS INC
Employer

OC: 05/12/13
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.6(2) – Timeliness of Appeal

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's May 31, 2013 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated in the hearing. Kris Rossiter appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUE:

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

FINDINGS OF FACT:

The claimant established a claim for benefits during the week of May 12, 2013. On May 31, 2013, a determination was mailed to the claimant and employer. The determination disqualified the claimant from receiving benefits as of May 12, 2013. The determination also informed the parties an appeal had to be filed on or before June 10, 2013.

The claimant received the determination the first or second week of June. The claimant assumed he would find a job and did not file an appeal right away. When the claimant was still unemployed by mid-July, he filed an appeal on July 16, 2013.

REASONING AND CONCLUSIONS OF LAW:

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision 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 June 10, 2013 deadline for appealing expired.

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. Since 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. The May 31, 2013 determination cannot be changed and the claimant remains disqualified from receiving benefits.

DECISION:

The representative's May 31, 2013 (reference 01) is affirmed. The claimant did not file a timely appeal or establish a legal excuse for filing a late appeal. The Appeals Section does not have jurisdiction to address the merits of the claimant's appeal. The claimant remains disqualified from receiving benefits as of May 12, 2012. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css