

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

RUSSELL E HALL
Claimant

**QUALITY MANUFACTURING
CORPORATION**
Employer

APPEAL 24A-UI-01188-DZ

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 01/08/23
Claimant: Appellant (1)**

Iowa Code § 96.6(2) – Timely Appeal
Iowa Code § 96.5(5) – Other Compensation

STATEMENT OF THE CASE:

Russel E. Hall, the claimant/appellant,¹ appealed the Iowa Workforce Development (IWD) December 13, 2023, (reference 08) unemployment insurance (UI) decision. IWD informed Mr. Hall that he is eligible for reduced REGULAR (state) UI benefits for the week of November 26, 2023 – December 2, 2023 because IWD concluded he was receiving or was entitled to received vacation pay, paid-time-off (PTO), holiday pay, severance pay, or dismissal pay, all of which are considered wages. On February 8, 2024, the Iowa Department of Inspections, Appeals, and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Hall and the employer for an in-person hearing scheduled for February 20, 2024 at 502 East 9th Street, Des Moines, Iowa.

The administrative law judge held an in-person hearing on February 20, 2024 at the designated location. Mr. Hall participated in the hearing personally. On Friday, February 16, 2024, the employer submitted documents for the appeal, requested to participate in the in-person hearing by telephone, and requested that its documents be admitted as evidence if the employer's request to participate by telephone is denied. The employer did not give a reason for why it wanted to participate via phone. On Monday, February 19, 2024, the administrative law judge denied the employer's request to participate by telephone because the employer did not give a reason for why it wanted to participate by telephone. The employer did not attend the hearing. The administrative law judge took official notice of the administrative record and admitted Employer's Exhibits 1-4 as evidence.

ISSUES:

Did Mr. Hall appeal on time?

Did Mr. Hall receive or was he entitled to receive other compensation for the week of November 26, 2023 – December 2, 2023?

Is the other compensation deductible from UI benefits, and if so, for what time period?

¹ Claimant is the person who filed for UI benefits. Appellant is the person or employer who filed the appeal.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: IWD mailed the December 13, 2023 (reference 08) UI decision to Mr. Hall at his correct address. The UI decision states that it becomes final unless an appeal is postmarked or received by the IWD Appeals Section by Saturday, December 23, 2023. If the appeal deadline falls on a Saturday, Sunday, or legal holiday, the appeal period is extended to the next working day. So, the appeal deadline was extended to Tuesday, December 26, 2023.

Mr. Hall received the decision in the mail. During the month of December 2023, Mr. Hall checked his mail every few weeks because he was staying with his then-girlfriend often. Mr. Hall was in hospital January 3-17, 2024. When Mr. Hall was released from hospital, he stayed with his then-girlfriend for about one week, or until about January 24. Mr. Hall did not check his mail during the time he was in hospital or when he was staying with then-girlfriend for about a week after he was released from hospital. On, or about Monday, January 29, Mr. Hall checked his mail and saw the decision. Mr. Hall called IWD and the IWD representative told him about his appeal rights.

Mr. Hall appealed online on Tuesday, January 30, 2024. The DIAL UI Appeals Bureau received the appeal the same day.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Hall did not appeal the December 13, 2023, (reference 08) UI decision on time.

Iowa Code § 96.6(2) provides, in relevant 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:

2. 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:
 - (2) 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.² Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid.³

Mr. Hall received the December 13, 2023 (reference 08) UI decision before the appeal deadline and, therefore, could have appealed by the deadline. The notice provision of the decision was valid. Mr. Hall's delay in appealing was not due to an error or misinformation from IWD or due to delay or other action of the United States Postal Service. Mr. Hall has not established any other good cause reason for his delay in appealing. Mr. Hall did not appeal the December 13, 2023 (reference 08) UI decision on time and the administrative law judge lacks jurisdiction (authority) to decide the other issues in this matter.

DECISION:

Mr. Hall did not appeal the December 13, 2023 (reference 08) UI decision on time. The December 13, 2023 (reference 08) UI decision that found Mr. Hall eligible for reduced REGULAR (state) UI benefits for the week of November 26, 2023 – December 2, 2023 is AFFIRMED.



Daniel Zeno
Administrative Law Judge

February 22, 2024
Decision Dated and Mailed

DZ/jkb

² *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979).

³ *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).

APPEAL RIGHTS. If you disagree with this 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 Avenue 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> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

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 Avenue 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.