

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHYNA L ROELENS
Claimant

APPEAL NO. 09A-UI-17320-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

INGERSOLL LIQOUR & BEVERAGE CO
Employer

**Original Claim: 10/11/09
Claimant: Respondent (1)**

Section 96.5-1 – Voluntary Quit
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The employer appealed a department representative's decision dated October 30, 2009, reference 01, that held the claimant was not discharged for misconduct on May 30, 2009, and that allowed benefits. A telephone hearing was held on December 28, 2009. The claimant did not participate. Inbo Jung, President, participated for the employer. Employer Exhibit One was received as evidence.

ISSUES:

Whether the appeal is timely.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witness and having considered the evidence in the record, finds that: The department mailed the decision to the employer's address of record on October 30. The employer received the decision. The appeal deadline date is November 9. The employer forgot to submit the appeal until it did so in-person on November 13.

The claimant failed to respond to the hearing notice.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

Another portion of this same Code section dealing with timeliness of an appeal from a representative's decision states that such an appeal must be filed within ten days after

notification of that decision was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court held that this statute prescribing the time for notice of appeal clearly limits the time to do so, and that compliance with the appeal notice provision is mandatory and jurisdictional. Beardslee v. IDJS, 276 N.W.2d 373 (Iowa 1979).

The administrative law judge considers the reasoning and holding of that court in that decision to be controlling on this portion of that same Iowa Code section which deals with a time limit in which to file a protest after notification of the filing of the claim has been mailed. The employer has not shown any good cause for not complying with the jurisdictional time limit. Therefore, the administrative law judge is without jurisdiction to entertain any appeal regarding the separation from employment.

The administrative law judge concludes that the employer failed to file a timely appeal from the department decision, and benefits are allowed the claimant by reason of her May 30, 2009 separation from employment, provided she is otherwise eligible.

The employer failed to establish a good cause for the late appeal.

DECISION:

The decision of the representative dated October 30, 2009, reference 01, is affirmed. The employer failed to file a timely appeal regarding the claimant's employment separation on May 30, 2009, and benefits are allowed, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/kjw