

IOWA WORKFORCE DEVELOPMENT
Unemployment Insurance Appeals Section
1000 East Grand—Des Moines, Iowa 50319
DECISION OF THE ADMINISTRATIVE LAW JUDGE
68-0157 (7-97) – 3091078 - EI

DORA L RAINE
243 MADISON ST
WATERLOO IA 50703

IOWA WORKFORCE
DEVELOPMENT DEPARTMENT

Appeal Number: 05A-UI-01550-HT
OC: 11/28/04 R: 03
Claimant: Appellant (1)

This Decision Shall Become Final, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4th Floor—Lucas Building, Des Moines, Iowa 50319**.

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.

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.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant, Dora Raines, filed an appeal from a decision dated January 18, 2005, reference 02. The decision found her overpaid for unemployment benefits. After due notice was issued a hearing was held by telephone conference call on March 1, 2005. The claimant participated on her own behalf. Exhibit D-1 was admitted into the record.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony of the witnesses and 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 January 18, 2005.

The claimant had reported to the United States Postal Service during the week of January 10 through 14, 2005, that her mail was being taken from her mail box. She asked that her mail be held at the post office and she would pick it up. The decision in this case was mailed after the agreement was made to hold the mail but the claimant maintained she never received it.

The week of January 24 through 28, 2005, the claimant contacted Iowa Workforce Development to find out why her unemployment benefits were not being deposited in her bank account. She was notified at that time of the decision, which disqualified her and was told she must file an appeal. The claimant faxed an appeal on February 10, 2005.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6-2 provides in pertinent part:

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. . . . 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.

The claimant did not receive the decision in this case and so the timeliness of the appeal cannot be determined by the date on which it was mail but by the date on which she first learned of the disqualifying decision. Ms. Raines was not clear on the exact date on which she was informed of the decision but acknowledged it was between January 24 and 28, 2005. She was also told at that time of the necessity of filing an appeal.

The appeal was received by Iowa Workforce Appeals on February 10, 2005, which is two weeks after she was notified of the decision. The administrative law judge cannot conclude she acted in a timely manner to file the appeal and it cannot be accepted.

DECISION:

The decision of the representative dated January 18, 2005, reference 02, is affirmed. The appeal in this case was not timely, and the decision of the representative remains in effect. The claimant overpaid unemployment benefits.

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