

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHERYL L REFSHAUGE
Claimant

APPEAL NO: 13A-UI-08400-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

INTERSTATE BRANDS CORP
Employer

**OC: 01/02/11
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 February 23, 2011 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant did not respond to the hearing notice or participate in the hearing. The employer responded to the hearing notice, but the employer was not available for the hearing. Based on the administrative record and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

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 January 2, 2011. On February 23, 2011, a determination was mailed to the claimant and the employer. The determination disqualified the claimant from receiving benefits for voluntarily quitting her employment on March 30, 2010. The determination also informed the parties this was final unless an appeal was filed or postmarked on or before March 5, 2011. The claimant filed an appeal on July 8, 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 March 7, 2011 deadline for appealing expired. Since March 5 was a Saturday, the deadline is automatically extended to Monday, March 7, 2011.

The claimant did not establish that her failure to file a timely appeal was 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 February 23, 2011 determination is not changed and the claimant remains disqualified from receiving benefits as of January 2, 2011.

DECISION:

The representative's February 23, 2011 determination (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. This means the February 23, 2011 determination cannot be changed and the claimant remains disqualified from receiving benefits as of January 2, 2011. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs