

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MEGHAN C CLEWELL**  
Claimant

**APPEAL NO: 14A-UI-06190-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SHELL ROCK HEALTHCARE CENTER**  
Employer

**OC: 05/04/14**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge  
Iowa Code § 96.6(2) – Timely Appeal

**STATEMENT OF THE CASE:**

The claimant appealed a representative's May 27, 2014 determination (reference 01) that disqualified the claimant from receiving benefits and held the employer's account exempt from charge because she had been discharged for disqualifying reasons. The claimant participated at the July 9 hearing with John Richter, a law student intern. Gina Carpenter appeared on the employer's behalf. Hattie Holmes, a paralegal, observed the hearing. Based on the evidence, the arguments of the parties, 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:**

After the claimant's employment ended on May 8, 2014, she established a claim for benefits during the week of May 4, 2014. A May 27 determination was mailed to the parties. The determination held the claimant disqualified from receiving benefits. The determination also informed the parties an appeal had to be filed or postmarked on or before June 6, 2014.

After the fact-finding interview, the claimant called representative on May 30 and learned a May 27 determination had been issued that disqualified her from receiving benefits. The claimant received the May 27 determination on June 2. The claimant called Iowa Legal Aid about the May 27 determination. The claimant then became involved in family issues, such as moving. She mailed her appeal on June 11, 2014.

**REASONING AND CONCLUSIONS OF LAW:**

The law states that an unemployment insurance determination is final unless a party appeals the determination within ten days after the determination 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 6 deadline for appealing expired.

The next question is whether the claimant had a reasonable opportunity to file a timely appeal. *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant had an opportunity to file a timely appeal, but did not.

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 Bureau does not have any legal authority to make a decision on the merits of the appeal.

(Even though testimony was presented concerning the reasons for the claimant's employment separation, this issue is not addressed because the claimant did not file a timely appeal.)

**DECISION:**

The representative's May 27, 2014 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 Bureau does not have legal jurisdiction to address the merits of the claimant's appeal. This means the claimant remains disqualified from receiving unemployment insurance benefits as of May 4, 2014. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

---

Debra L. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

dlw/css