

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**ELIZABETH OBERHOFFER**  
Claimant

**FALEY ENTERPRISES INC**  
Employer

**APPEAL 21A-UI-09726-ED-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.6(2) – Timeliness of protest  
Iowa Code § 96.4(3) – Able to and Available for Work  
Iowa Admin Code r. 871-24.23(10) – Approved Leave of Absence

On April 6, 2021 the claimant filed an appeal from the February 19, 2021 (reference 01) Iowa Workforce Development (“IWD”) unemployment insurance decision that allowed benefits. The parties were properly notified about the hearing. A telephone hearing was held on June 22, 2021. The claimant participated personally. The employer participated.

**ISSUES:**

Was the claimant’s appeal timely?  
Was the claimant able to and available for work?  
Was the claimant on an approved leave of absence?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

The unemployment insurance decision denying benefits was mailed to the employer's address of record on February 19, 2021. Claimant filed her appeal on April 6, 2021. The decision contains a warning that the claimant appeal is due ten days from the initial notice date. Claimant missed the appeal deadline by 18 days.

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes that claimant has failed to file a timely appeal as required by the Iowa Employment Security Law.

Iowa Code § 96.6(2) provides in pertinent part:

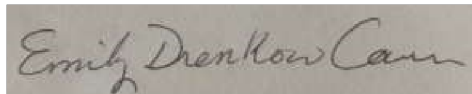
2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of 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).

Claimant's delay was not due to an error or misinformation from the Department or due to delay or other action of the United States Postal Service. No other good cause reason has been established for the delay. Claimant's appeal was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

**DECISION:**

The February 19, 2021 (reference 01) unemployment insurance decision denying benefits is affirmed. The appeal in this case was not timely, and the decision of the representative remains in effect. The administrative law judge concludes that the claimant has failed to file his appeal within the time period prescribed by the Iowa Employment Security Law.



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Emily Drenkow Carr  
Administrative Law Judge  
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June 29, 2021  
Decision Dated and Mailed

ed/kmj