

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

FRANCIS R BLAIR
Claimant

PRESTAGE FOODS OF IOWA LLC
Employer

APPEAL 20A-UI-15141-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 05/10/20
Claimant: Appellant (1)

Iowa Code § 96.6(2) – Timely Appeal
Iowa Code § 96.5(2)a – Discharge for Misconduct
Iowa Code § 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Francis R Blair, the claimant/appellant, filed an appeal from the July 1, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on January 22, 2021. Mr. Blair participated and testified. The employer participated through Pamela Webster.

ISSUE:

Was Mr. Blair's appeal filed on time?

Was the separation a layoff, discharge for misconduct or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Mr. Blair at 306 Avenue E, Fort Dodge, IA 50501-4565 on July 1, 2020. Mr. Blair received the decision at his updated address of 1021 1st Ave N, Fort Dodge, IA 50501 on, or about, July 9, 2020. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by July 11, 2020. If the date falls on a Saturday, Sunday, or legal holiday, the appeal period is extended to the next working day. July 11, 2020 was a Saturday; therefore, the deadline was extended to Monday, July 13, 2020. Mr. Blair appealed the decision via United States Postal Service mail postmarked on November 19, 2020. The appeal was received by Iowa Workforce Development on November 23, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that Mr. Blair's appeal was not filed on time.

Iowa Code § 96.6(2) provides, in pertinent part: “[u]nless 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.”

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

In this case, Mr. Blair received the decision on, or about, July 9. The appeal deadline was Monday, July 13, since July 11, the original appeal date fell on a Saturday. When Mr. Blair received the decision he wasn't sure what to do so he didn't file an appeal at that time. Mr. Blair filed his appeal on November 19. Mr. Blair's delay was not due to an error or misinformation from Iowa Workforce Development or delay or other action of the United States Postal Service. Mr. Blair's appeal was not filed on time.

DECISION:

Mr. Blair's appeal was not filed on time. The July 1, 2020, (reference 01) unemployment insurance decision is affirmed.



Daniel Zeno
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February 8, 2021
Decision Dated and Mailed

dz/mh