

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HOWARD E COUNTRYMAN
Claimant

APPEAL NO. 12A-UI-12658-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY
Employer

**OC: 10/09/11
Claimant: Appellant (1)**

Section 96.5-1 - Voluntary Quit of Part-time Job
Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 27, 2012, reference 06, that concluded he voluntarily quit part-time work without good cause but was eligible to receive benefits because he had sufficient wages from other employers to qualify. A telephone hearing was held on November 19, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. Jackie Denning participated in the hearing on behalf of the employer.

ISSUE:

Was the appeal in this case filed timely?

FINDINGS OF FACT:

The claimant filed a claim for unemployment insurance benefits effective October 9, 2011. He reopened that claim after working for the employer from December 21, 2011, to May 11, 2012, when he quit his employment.

An unemployment insurance decision was mailed to the claimant's last-known address of record on June 27, 2012. The decision concluded he voluntarily quit part-time work without good cause but was eligible for benefits because he had sufficient wages from other employers to qualify. The decision explained that his wage credits from the employer would be removed until he earned ten times his weekly benefit amount in subsequent employment. Finally, the decision stated it was final unless a written appeal was postmarked or received by the Appeals Section by July 7, 2012.

The claimant received the decision within the ten-day period for appealing the decision. The decision became final when the claimant failed to appeal it within ten days. He did not appeal it because it stated he was eligible for benefits.

The claimant was required to file for unemployment insurance benefits again in October 2012 because his benefit year had expired. The claimant appealed from decision dated October 17,

2012, that determined that a decision had been made regarding his May 2012 separation from employment and that decision remained in effect.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant filed a timely appeal.

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 from unemployment insurance decisions 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 claimant's appeal was filed after the deadline for appealing the June 27, 2012, decision expired.

The next question is whether the claimant had a reasonable opportunity to file an appeal in a timely fashion. Hendren v. IESC, 217 N.W.2d 255 (Iowa 1974); Smith v. IESC, 212 N.W.2d 471, 472 (Iowa 1973). I believe he had a reasonable opportunity to file a timely appeal. The decision determined he voluntarily quit part-time work without good cause attributable to the employer. Even though it said he was eligible, it also said that the wages credits he earned with the employer be removed. If the claimant disagreed with this, he could have appealed at that time.

The 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 appeal was not filed timely, there is no jurisdiction to make a decision on the merits of the appeal.

DECISION:

The unemployment insurance decision dated June 27, 2012, reference 06, is affirmed. The decision concluding the claimant voluntarily quit part-time work without good cause and his wage credits from the employer would be removed until he earned ten times his weekly benefit amount in subsequent employment remains in effect.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css