

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SHAWNA J MILLS
Claimant

BELLA FLORA LLC
Employer

APPEAL 22A-UI-07158-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/14/21
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:

Shawna J Mills, the claimant/appellant, filed an appeal from the May 13, 2021 (reference 02) unemployment insurance (UI) decision that denied REGULAR (state) UI benefits because of an April 30, 2020 quit. The parties were properly notified of the hearing. A telephone hearing was held on May 19, 2022. Ms. Mills participated personally. The employer participated through Kelly Thomason, owner. The administrative law judge took official notice of the administrative record.

ISSUES:

Is Ms. Mills' appeal filed on time?
Did Ms. Mills voluntarily quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Ms. Mills at the correct address on May 13, 2021. The UI decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development (IWD) Appeals Section by May 23, 2021. If the date falls on a Saturday, Sunday, or legal holiday, the appeal period is extended to the next working day. May 23, 2021 was a Sunday; therefore, the deadline was extended to Monday, May 24, 2021.

Ms. Mills received the UI decision in the mail. Ms. Mills had returned to work for the employer in April 2021. Ms. Mills did not file an appeal at that time.

IWD issued six additional UI decisions on March 22, 2022. The reference 02 concluded that Ms. Mills was not eligible for REGULAR (state) UI benefits in the March 15, 2020 claim year based on her April 30, 2020 separation from employment with this employer. The other five decisions concluded that Ms. Mills was overpaid REGULAR (state) UI benefits, Pandemic Emergency Unemployment Compensation (PEUC) benefits, Federal Pandemic Unemployment Compensation (FPUC) benefits, Lost Wage Assistance Payments (LWAP) benefits, and state

Extended Benefits. Ms. Mills received at least some of those decisions in the mail. Ms. Mills filed an appeal online on March 24, 2022. The appeal was received by the Appeals Bureau of Iowa Workforce Development on March 24, 2022. IWD set up appeals for the five overpayment UI decisions, the March 22, 2022 (reference 02) UI decision, and the May 13, 2021, (reference 02) UI decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Mills' appeal of the May 13, 2021, (reference 02) UI decision 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:

2. 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:
 - (2) 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).

Ms. Mills received the May 13, 2021, (reference 02) UI decision before the deadline and, therefore, could have filed an appeal by the appeal deadline. The notice provision of the decision was valid. Ms. Mills' delay in filing her appeal 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 in filing her appeal. Ms. Mills' appeal of the May 13, 2021, (reference 02) UI decision was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

DECISION:

Ms. Mills' appeal of the May 13, 2021, (reference 02) UI decision was not filed on time. The May 13, 2021, (reference 02) UI decision is AFFIRMED.



Daniel Zeno
Administrative Law Judge
Iowa Workforce Development
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

June 29, 2022
Decision Dated and Mailed

dz/mh

NOTE TO MS. MILLS:

- If you were unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA) benefits. **You must apply for PUA benefits to determine your eligibility under the program.** To apply for PUA benefits,
 - First go to <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-appeals>
 - Go to the "WHAT TO EXPECT FROM THE HEARING" section.
 - Go to the last two sentences in that section.
 - The PUA application link is at the end of the second-to-last sentence of the section.
 - The reference number/authorization number is the pin number you used for the appeal hearing: 107158.
- **If IWD finds you eligible for federal PUA benefits, you can use the PUA benefits to pay off the REGULAR (state) UI overpayment.**
- **If you do not apply for and are not approved for PUA, you may be required to repay the benefits you've received so far.**
- Governor Reynolds ended Iowa's participation in federal pandemic-related unemployment benefit programs, including the PUA program, effective June 12, 2021. **But you can still apply for PUA benefits at the link above if you were unemployed for reasons related to COVID-19 between February 2, 2020, and June 12, 2021.**
- To check on your PUA application contact IWD online, via email, or by phone.
 - Online: Go to www.iowaworkforce.gov, click on "Contact Us" then click on "Unemployment Help Request" and complete the form.
 - Email: uiclaimshelp@iwd.iowa.gov
 - Phone: 1-866-239-0843