

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**JODI A CHRIST**  
Claimant

**APPEAL 17A-UI-10667-DB-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**C/O EQUIFAX: USPS**  
Employer

**OC: 08/27/17**  
**Claimant: Appellant (1)**

Iowa Code § 96.6(2) – Timeliness of Appeal  
Iowa Code § 96.6(3) – Appeals  
871 IAC 24.28(6-8) – Prior Adjudication

**STATEMENT OF THE CASE:**

The claimant/appellant filed an appeal from the September 7, 2017 (reference 02) unemployment insurance decision that found claimant was not eligible to receive unemployment insurance benefits because a decision on the August 30, 2016 separation was made on a prior claim and that decision remains in effect. Notice of hearing was mailed to the parties' last known addresses of record for a telephone hearing scheduled for November 3, 2017. Claimant, Jodi A. Christ, participated personally. The employer did not participate.

**ISSUES:**

Did claimant file a timely appeal?  
Was the separation adjudicated in a prior claim year?

**FINDINGS OF FACT:**

Having reviewed the claimant's administrative record, the administrative law judge finds:

An unemployment insurance decision was issued on September 7, 2017, which found that claimant was not eligible for benefits because a decision on the August 30, 2016 separation from USPS was made on a prior claim year and that decision still remained in effect. This decision had an appeal deadline of September 17, 2017. Claimant filed her appeal via email to the Appeals Bureau on September 10, 2017.

The separation issue from USPS was resolved in a prior claim year (original claim date August 28, 2016) as the Employment Appeal Board issued a decision dated July 27, 2017 finding that the claimant was not eligible for benefits and the decision of the administrative law judge was correct. See 17B-UCFE-00029. Administrative Law Judge Stephanie R. Callahan issued a decision dated July 3, 2017 finding that the claimant was not eligible for benefits because her appeal from the September 19, 2016 decision finding that she voluntarily quit work was not timely.

Claimant has filed an appeal of the Employment Appeal Board's July 27, 2017 decision with the Henry County District Court in Iowa. Claimant had no information regarding the status of this Henry County case. As such, the Employment Appeal Board's decision has not been reversed and remains final agency action regarding the separation from employment with USPS.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes the claimant did file a timely appeal, however, the separation at issue has been adjudicated in a prior claim year and that decision has been affirmed. Accordingly, this decision is also affirmed.

The first issue in this case is whether claimant filed a timely appeal from the September 7, 2017 (reference 02) unemployment insurance decision. The administrative law judge finds that the appeal was timely.

Iowa Code § 96.6(2) provides:

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. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of § 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to § 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving § 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to § 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving § 96.5, subsection 1, paragraphs "a" through "h". Unless 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding § 96.8, subsection 5.

Unless 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 Code § 96.6(2). In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court has held that this statute clearly limits the time to do so, and compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. Iowa Dep't of Job Serv.*, 276 N.W.2d 373 (Iowa 1979). In this case, the claimant filed a timely appeal when she emailed the Appeals Bureau on September 10, 2017.

The second issue is whether this separation has been previously adjudicated in finding claimant was not eligible for benefits. The administrative law judge finds that it has.

Iowa Admin. Code r. 871-24.28(8) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(8) The claimant voluntarily left employment. However, there shall be no disqualification under section 96.5(1) if a decision on this same separation has been made on a prior claim by the employment appeal board and such decision has become final.

The separation issue presented was resolved in a prior claim year (original claim date August 28, 2016) as the representative's decision was dated September 19, 2016 (reference 01). That decision found claimant voluntarily quit USPS and was not eligible for benefits. Claimant appealed that decision and it was affirmed by Judge Callahan and by the Employment Appeal Board. While claimant has filed an appeal of the Employment Appeal Board's decision with the Henry County District Court, no decision reversing the Employment Appeal Board has been issued. As such, this current decision, referring to the prior claim year decision on the same separation date, is affirmed. Benefits are denied.

**DECISION:**

The September 7, 2017 (reference 02) decision is affirmed since the prior decision on the separation has been affirmed. Benefits are denied until such time as claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Dawn Boucher  
Administrative Law Judge

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Decision Dated and Mailed

db/rvs