

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WILLIAM R SLAGHT
Claimant

APPEAL 18A-UI-02750-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 11/26/17
Claimant: Appellant (1)**

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.6(1) – Filing Claims
Iowa Admin. Code r. 871-24.2(1)g – Retroactive Benefits

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 17, 2018, (reference 03) unemployment insurance decision that denied the request for retroactive benefits. After due notice was issued, a telephone conference hearing was held on March 27, 2018. Claimant participated. Claimant's Exhibit A was admitted into the record.

ISSUE:

Did the claimant file a timely appeal?

Should the claimant's request for retroactive benefits be granted for the four-week period ending January 13, 2018?

FINDINGS OF FACT:

Having heard the testimony and having reviewed the evidence in the record, the administrative law judge finds: Claimant filed an original claim effective November 26, 2017. He stopped filing weekly continued claims after the week ending December 16, 2017. The claimant stopped filing because he had a number of personal issues going on in his life, and as he put it at hearing he "just sort of spaced it off." During the time period the claimant was not making weekly claims he continued to seek work and contends that he was mentally and physically able to work if he had been offered a job.

The claimant did not receive the decision of January 17, 2018, until after his time to file an appeal had already passed. As soon as the claimant learned of the decision he filed an appeal.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the claimant's appeal is timely. The administrative law judge determines it is.

Iowa Code section 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 section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 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 section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 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 section 96.8, subsection 5.

The claimant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Employment Security Commission*, 212 N.W.2d 471, 472 (Iowa 1973). Therefore, the appeal shall be accepted as timely.

For the reasons that follow, the administrative law judge concludes the claimant's request for retroactive benefits is denied.

Iowa Code section 96.6(1) provides:

96.6 Filing — determination — appeal.

1. *Filing*. Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

In order to be eligible for weekly benefits, the claimant must file an online web application continued claim or show good cause for the failure to do so to support a request for retroactive benefits. Iowa Admin. Code r. 871-24.2(1)g.

The claimant contends that he was able and available for work during the four weeks in question. If the claimant was able to look for work and accept work, then he had the capacity to make his weekly continued claims. Forgetting to make weekly claims or putting off making weekly claims due to personal problems is not good cause to award retroactive benefits. Retroactive benefits are denied.

DECISION:

The January 17, 2018, (reference 03) unemployment insurance decision is affirmed. The claimant did file a timely appeal. The claimant's request for retroactive benefits is denied.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/rvs