

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEMETRIUS J QUALLS
Claimant

TARGET CORPORATION
Employer

APPEAL 22A-UI-01323-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/27/20
Claimant: Appellant (1)

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence

STATEMENT OF THE CASE:

On December 7, 2021, claimant Demetrius J. Qualls filed an appeal from the February 16, 2021 (reference 01) unemployment insurance decision that denied benefits based on a determination that claimant was on an approved leave of absence and was not available for work. The parties were properly notified of the hearing. A telephonic hearing was held at 10:00 a.m. on Monday, February 7, 2022. Appeal numbers 22A-UI-01323-LJ-T, 22A-UI-01326-LJ-T, and 22A-UI-01327-LJ-T were heard together and created one record. The claimant, Demetrius J. Qualls, participated. The employer, Target Corporation, participated through Stephanie Detweiler, Human Resources Manager. Department Exhibits D-1 and D-2 were received and admitted into the record to help determine the timeliness issue. The administrative law judge took official notice of the administrative record.

ISSUE:

Did the claimant file a timely appeal?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The ineligibility decision was mailed to claimant's last known address of record on February 16, 2021. He did receive the decision in February 2021. The first sentence of the decision states, "If this decision denies benefits and is not reversed on appeal, it may result in an overpayment which you will be required to repay." The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by February 26, 2021. The appeal was not filed until December 7, 2021, which is after the date noticed on the disqualification decision.

Claimant received the ineligibility decision and did not take any action at that time. He had not read the Unemployment Insurance Claimant Handbook and did not understand that he had been found legally ineligible for benefits. Claimant mistakenly believed his employer had decided not to grant him benefits. He decided to "just accept... that it was what it was." Later, when he received an overpayment decision in the mail, claimant decided to appeal.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant failed to file a timely appeal.

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.

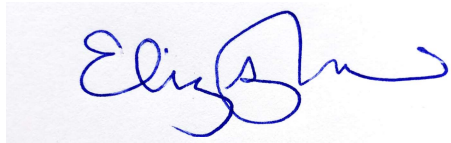
The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 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).

Here, the claimant received the decision in the mail and, therefore, had an opportunity to file an appeal prior to the appeal deadline. Claimant's delay 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. Claimant's lack of understanding of the reason for the denial, stemming from his failure to read the handbook, may have contributed to his failure to file the appeal. However, this is not a good-cause reason to find the appeal timely. Claimant's appeal was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

DECISION:

The February 16, 2021 (reference 01) unemployment insurance decision is affirmed. Claimant failed to file a timely appeal. The decision of the representative remains in effect.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

February 24, 2022
Decision Dated and Mailed

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