

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DAVID L JACOBSON**  
Claimant

**APPEAL NO. 08A-UCFE-00003-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**US POSTAL SERVICE**  
Employer

**OC: 12/02/07 R: 03  
Claimant: Appellant (1)**

Section 96.5-2-a – Suspension for Misconduct  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

David L. Jacobson (claimant) appealed a representative's January 2, 2008 decision (reference 01) that concluded he was not qualified to receive unemployment insurance benefits because the U.S. Postal Service (employer) suspended him for disqualifying reasons. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on March 31, 2008. The claimant participated in the hearing with his union representative, Randy Kruger. Angie Pettinger and Dan Chambers appeared on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant file a timely appeal or establish a legal excuse for filing a late appeal?

**FINDINGS OF FACT:**

The claimant established a claim for unemployment insurance benefits during the week of December 2, 2007. On January 2, 2008 a representative's decision was mailed to the claimant and employer indicating the claimant was not qualified to receive unemployment insurance benefits as of December 2, 2007, because he had been suspended for disqualifying reasons.

The claimant received the representative's decision on January 4, 2008. When the claimant contacted his local workforce representative, he learned he was not qualified to receive benefits because he had been suspended for disqualifying reasons. Since the claimant had not been discharged, he incorrectly assumed he did not have to do anything.

After the employer informed the claimant his suspension would turn into a discharge, the claimant reopened his claim during the week of February 24, 2008. On March 11, 2008 another representative's decision was mailed to the claimant. This decision informed him that the reasons for his employment separation had already been adjudicated and he was still disqualified from receiving benefits. The claimant appealed on March 14, 2008.

**REASONING AND CONCLUSIONS OF LAW:**

Unless the claimant or other interested party, after notification or within ten calendar days after a representative's decision is mailed to the parties' last-known address, files an appeal from the decision, the decision is final. Benefits shall then be paid or denied in accordance with the representative's decision. Iowa Code § 96.6-2. Pursuant to rules 871 IAC 26.2(96)(1) and 871 IAC 24.35(96)(1), appeals are considered filed when postmarked, if mailed. Messina v. IDJS, 341 N.W.2d 52 (Iowa 1983).

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 January 12, 2008 deadline for appealing 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). The evidence establishes the claimant had a reasonable opportunity to file a timely appeal, but did not. Although the claimant contacted his local workforce representative in early January, the facts do not establish that the claimant received any misinformation. Instead, the claimant knew he was not qualified to receive benefits as of December 2 as a result of his suspension. The January 2, 2008 decision informed the claimant that to become eligible he had to earn ten times his weekly benefit amount. The claimant did not appeal this disqualification.

The claimant's 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 claimant did not file a timely appeal or establish a legal excuse for filing a late appeal, the Appeals Section has no legal jurisdiction to make a decision on the merits of the appeal. A failure to understand the law does not constitute good cause for making a late appeal.

**DECISION:**

The representative's January 2, 2008 decision (reference 01) is affirmed. The claimant did not file a timely appeal. The Appeals Section has no legal jurisdiction to address the merits of his appeal. This means the claimant remains disqualified from receiving unemployment insurance benefits as of December 2, 2007. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible.

---

Debra L. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

dlw/css