

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MEEGAN C STILES**

Claimant

**WEAVER ENTERPRISES LTD**

Employer

**APPEAL 17A-UI-06918-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 01/08/12**

**Claimant: Appellant (1)**

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Iowa Code § 96.6(2) – Timeliness of Appeal  
Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(2)a – Discharge for Misconduct

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the March 13, 2012, (reference 01) unemployment insurance decision that denied benefits based upon a voluntary resignation. The parties were properly notified about the hearing. A telephone hearing was held on July 24, 2017. Claimant participated. Employer participated through director of human resources, Debra Zakarus.

**ISSUES:**

Is the appeal timely?

Did claimant voluntarily leave the employment with good cause attributable to the employer or did employer discharge the claimant for reasons related to job misconduct sufficient to warrant a denial of benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant filed a claim for benefits effective January 8, 2012. At the time, claimant resided at 801 22nd Street, Apartment 9, Marion, Iowa 52302. Claimant filed weekly continued claims and received benefits through the week ending March 3, 2012. Around that time, claimant obtained another residence and place of employment and discontinued filing her weekly continued claim for benefits. Claimant did not contact Iowa Workforce Development to update her address. Claimant did not ask the United States Postal Service to forward her mail to a new address. Therefore, claimant did not receive the March 13, 2012, decision denying her benefits. On May 21, 2012, a reference 04 decision was issued finding claimant was overpaid benefits based on the denial decision. That decision was also sent to 801 22nd Street, Apartment 9, Marion, Iowa 52302. Each year thereafter, Iowa Workforce Development sent an overpayment billing statement to the same address. Claimant never contacted the agency to update her address. Claimant never requested that the post office forward her mail. In 2017, Iowa Workforce Development was able to ascertain claimant's current address. On July 3, 2017, Iowa Workforce Development sent an overpayment billing statement to claimant at her current

address. Claimant received the billing statement on July 7, 2017, and filed an appeal on July 10, 2017.

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

For the reasons that follow, the administrative law judge concludes the claimant's appeal is untimely.

Iowa Code section 96.6(2) provides, in pertinent part:

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. . . . 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.

The ten calendar days for appeal begins running on the mailing date. The "decision date" found in the upper right-hand portion of the representative's decision, unless otherwise corrected immediately below that entry, is presumptive evidence of the date of mailing. *Gaskins v. Unempl. Comp. Bd. of Rev.*, 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Bd. of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976).

In this case, claimant failed to file an appeal within ten days of the mailing date of the decision. Claimant's failure to file a timely appeal within the time prescribed by the Iowa Employment Security Law was not due to any Agency error or misinformation or delay or other action of the United States Postal Service pursuant to Iowa Admin. Code r. 871-24.35(2). Instead, the failure to timely file an appeal was due to claimant's own personal irresponsibility and was unreasonable. Claimant failed to update the Iowa Workforce Development and the United States Postal Service with a new address for over five years.

More than ten calendar days elapsed between the mailing date and the date this appeal was filed, and claimant has not shown a good cause reason for the delay. 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. Iowa Dep't of Job Serv.*, 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. Iowa Dep't of Job Serv.*, 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 administrative law judge has no authority to change the decision denying claimant benefits because her appeal is untimely.

**DECISION:**

The March 13, 2012, (reference 01) unemployment insurance decision is affirmed. The appeal in this case was not timely, and the decision of the representative remains in effect.

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Christine A. Louis  
Administrative Law Judge  
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Decision Dated and Mailed

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