

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**DOMINIC J DAVIS**  
Claimant

**PEOPLEREADY, INC.**  
Employer

**APPEAL 21A-UI-03678-DZ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20**  
**Claimant: Appellant (1)**

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Iowa Code § 96.6(2) – Timely Appeal  
Iowa Code § 96.5(2)a – Discharge for Misconduct  
Iowa Code § 96.5(1) – Voluntary Quit  
Iowa Code § 96.5(1)j – Voluntary Quit – Temporary Employment Firm  
Iowa Code § 96.4(3) – Able To and Available For work

**STATEMENT OF THE CASE:**

Dominic J Davis, the claimant/appellant, filed an appeal from the May 22, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on March 17, 2021. Mr. Davis participated and testified. The employer did not participate. Official notice was taken of the administrative record.

**ISSUE:**

Is Mr. Davis' appeal filed on time?  
Did Mr. Davis voluntarily quit without good cause attributable to the employer?  
Did Mr. Davis quit by not reporting for additional work assignments within three business days of the end of the last assignment?  
Is Mr. Davis able to and available for work?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Mr. Davis at the correct address on May 22, 2020. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by June 1, 2020. Mr. Davis received the decision in the mail. Mr. Davis did not check his mail until on, or about, August 24, 2020 because his mother-in-law had the key to the mailbox and she was out of town due to the early August 2020 derecho storm that hit Cedar Rapids. On, or about, August 24, 2020, Mr. Davis read the decision. Mr. Davis called Iowa Workforce Development and was told that it was too late for him to file an appeal so he did not file an appeal at that time. Mr. Davis applied for Pandemic Unemployment Assistance (PUA) benefits. He received the Iowa Workforce Development decision, dated January 16, 2021, that concluded he was not eligible for PUA

benefits. Mr. Davis appealed the decision online on January 23, 2020. The appeal was received by Iowa Workforce Development on January 23, 2020.

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

For the reasons that follow, the administrative law judge concludes that Mr. Davis' appeal was not filed on time.

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).

Mr. Davis received the decision in the mail and, therefore, could have filed an appeal prior to the appeal deadline. The notice provision of the decision was valid. Mr. Davis did not check his mail and did not see the decision until on, or about, August 24, 2020. Mr. Davis' delay in filing his appeal before the deadline 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. Mr. Davis' appeal was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issues in this matter.

**DECISION:**

Mr. Davis' appeal was not filed on time. The May 22, 2020, (reference 01) unemployment insurance decision is affirmed.



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Daniel Zeno  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
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Des Moines, Iowa 50319-0209  
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March 19, 2021  
Decision Dated and Mailed

dz/lj