

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOSE L CASTILLO
Claimant

APPEAL NO. 24A-UI-10712-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 01/07/24
Claimant: Appellant (1)**

Iowa Code Section 96.6(2) – Timeliness of Appeal
Iowa Code Section 96.4(3) – Able & Available

STATEMENT OF THE CASE:

On December 27, 2024, Jose Castillo (claimant) filed a late appeal from the April 17, 2024 (reference 03) decision that denied benefits for the week ending March 23, 2024, based on the deputy's conclusion that Mr. Castillo did not meet the reemployment activities requirement during that week and had previously been warned about the requirements.

After due notice was issued, a hearing was held on January 15, 2025. Mr. Castillo participated. There were four appeal numbers set for a consolidated hearing: 24AUI10711JTT, 24AUI10712JTT, 24AUI10713JTT and 24AUI10714JTT. Exhibit A was received into evidence. The administrative law judge took official notice of the following agency administrative records: the reference 01 through 05 decisions, the reference 03 fact-finding materials, DBIN, KCCO, NMRO, KLOG, KFFV, WAGE-B, and DBRO.

ISSUE:

Whether the appeal was timely. Whether there is good cause to treat the appeal as timely.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds:

Jose Castillo (claimant) established an original claim for benefits that was effective January 7, 2024. Mr. Castillo has at all relevant times resided with his parents on 26th Street in Moline, Illinois and provided that address to Iowa Workforce Development as his mailing address.

After Mr. Castillo established the January 7, 2024 original claim, he made weekly claims for each of the weeks between January 7, 2024 and March 30, 2024. Mr. Castillo then discontinued his claim for benefits. Eight months later, Mr. Castillo established an "additional claim" for benefits that was effective December 1, 2024.

Between February 16, 2024 and May 6, 2024, IWD mailed five unemployment insurance decisions to Mr. Castillo's address of record. Mr. Castillo received and reviewed each of the decisions in a timely manner, prior to the applicable deadline for appeal set forth on each decision. Each of the decisions provided clear and concise instructions for filing an appeal online, by fax, by email, or by mail. Mr. Castillo elected not to file an appeal from any of the five decisions by the applicable appeal deadlines. The five decisions were as follows.

The February 16, 2024 (reference 01) decision ruled that Ms. Castillo was required to seek work, keep a record of his reemployment activities, and engage in four reemployment activities, including at least three job applications, each benefit week. The decision included a warning that the decision would become final unless an appeal was postmarked by February 26, 2024 or was received by the Appeals Section by that date.

On February 27, 2024, IWD mailed the reference 02 work search warning decision to Mr. Castillo. The reference 02 decision reminded Mr. Castillo that he was required to engage in four reemployment activities, including three job applications, each benefit week and warned that he could be disqualified for benefits for future weeks in which he did not meet the reemployment activities requirement. The reference 02 decision referred to the claim for the week ending February 24, 2024 as the basis for the work search warning decision. The decision included a warning that the decision would become final unless an appeal was postmarked by March 8, 2024 or was received by the Appeals Section by that date.

IWD mailed two decisions to Mr. Castillo on April 17, 2024. The decisions were issued after Mr. Castillo discontinued his weekly claims. However, both decisions related to the benefit week that ended March 23, 2024.

The April 17, 2024 (reference 03) decision denied benefits for the week ending March 23, 2024, based on the deputy's conclusion that Mr. Castillo did not meet the reemployment activities requirement during that week and had previously been warned about the requirements. The decision included a warning that the decision would become final unless an appeal was postmarked by April 27, 2024 or was received by the Appeals Section by that date. The decision also stated that if the deadline for appeal fell on a Saturday, Sunday or legal holiday, the deadline would be extended to the next working day. April 27, 2024 was a Saturday and the next working day was Monday, April 29, 2024.

The April 17 (reference 04) decision denied benefits for the period beginning April 7, 2024, based on the deputy's conclusion that Mr. Castillo failed to report as directed by IWD during the week of April 7, 2024 and, therefore, did not meet the availability requirements effective April 7, 2024. The failure to report pertained to an April 10, 2024 telephonic fact-finding interview that IWD set to address Mr. Castillo's availability for work during the week that ended March 23, 2024. The decision included a warning that the decision would become final unless an appeal was postmarked by April 27, 2024 or was received by the Appeals Section by that date. The decision also stated that if the deadline for appeal fell on a Saturday, Sunday or legal holiday, the deadline would be extended to the next working day. Accordingly, the effective appeal deadline was Monday, April 29, 2024.

The reference 04 decision included the following statement with regard to resolving the disqualification set forth in the decision:

TO BECOME ELIGIBLE FOR BENEFITS:

YOU NEED TO RESOLVE THE ISSUE IDENTIFIED ON THE ORIGINAL NOTICE MAILED TO YOU. CONTACT IOWA WORKFORCE DEVELOPMENT AS 866-239-0843 TO PROVIDE THE REQUIRED INFORMATION.

On May 6, 2024, IWD mailed the reference 05 overpayment decision to Mr. Castillo. The reference 05 decision held that Mr. Castillo was overpaid \$394.00 in unemployment insurance benefits for the week that ended March 23, 2024, due to the April 17, 2024 decision that denied benefits for that week. The earlier decision in question was the reference 03 decision. The overpayment decision included a warning that the decision would become final unless an appeal was postmarked by May 16, 2024 or was received by the Appeals Section by that date.

When Mr. Castillo established the "additional claim" for benefits that was effective December 1, 2024, he had still not filed an appeal from any of the five decisions earlier entered in connection with his claim. After Mr. Castillo established the additional claim, he recommenced making weekly claims.

On or about December 27, 2024, Mr. Castillo contacted IWD customer service to check on the status of his unemployment insurance benefits, as he had not yet received anticipated benefits in connection with the December 1, 2024 additional claim. At that time, an IWD representative cited the April 17, 2024 (reference 04) decision as an obstacle to Mr. Castillo receiving unemployment insurance benefits in connection with the additional claim.

On December 27, 2024, Mr. Castillo completed and transmitted an online appeal from the April 17, 2024 (reference 04) decision. On December 27, 2024, the Appeals Bureau received the late appeal from reference 04 decision and treated it as also a late appeal from reference 02, 03 and 05 decisions.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6(2) in relevant part as 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. ... 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-day deadline for appeal begins to run on the date Workforce Development mails the decision to the parties. The "decision date" found in the upper right-hand portion of the Agency 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. Board of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976).

An appeal submitted by mail is deemed filed 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 was 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. See Iowa Administrative Code rule 87124.35(1)(a). See also *Messina v. IDJS*, 341 N.W.2d 52 (Iowa 1983). An appeal submitted

by any other means is deemed filed on the date it is received by the Unemployment Insurance Division of Iowa Workforce Development. See Iowa Administrative Code rule 87124.35(1)(b).

The evidence in the record establishes that more than ten calendar days elapsed between the mailing date and the date this appeal was filed. 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). One question in this case thus becomes whether the appellant was deprived of a reasonable opportunity to assert 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).

No submission shall be considered timely if the delay in filing was unreasonable, as determined by the division after considering the circumstances in the case. See Iowa Administrative Code rule 87124.35(2)(c).

The evidence in the record establishes an untimely appeal from the April 17, 2024 (reference 03) decision. Mr. Castillo received the decision in a timely manner, had a reasonable opportunity to file an appeal by the applicable appeal deadline, but unreasonably delayed filing the appeal to December 27, 2024. The late filing of the appeal was not attributable to IWD error or misinformation or to delay or other action of the United States Postal Service. There is not good cause to treat the late appeal as a timely appeal. See Iowa Administrative Code rule 87124.35(2). Because the appeal was untimely, the administrative law judge lacks jurisdiction to disturb the reference 03 decision. See *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979) and *Franklin v. IDJS*, 277 N.W.2d 877 (Iowa 1979).

DECISION:

The claimant's appeal from the April 17, 2024 (reference 03) decision was untimely. The decision that denied benefits for the week ending March 23, 2024, based on the deputy's conclusion that the claimant did not meet the reemployment activities requirement during that week and had previously been warned about the requirements, remains in effect.



James E. Timberland
Administrative Law Judge

January 22, 2025
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.