

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JONATHAN E HINDERLITER
Claimant

APPEAL 21A-UI-18657-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARLETON LIFE SUPPORT SYSTEMS INC
Employer

OC: 06/14/20
Claimant: Appellant (1)

Iowa Code § 96.19(38) – Total and Partial Unemployment
Iowa Admin. Code r. 871-24.23(26) – Same Hours and Wages
Iowa Code § 96.4(3) – Able to and Available for Work
Iowa Code § 96.7(2)a(2) – Same Base Period Employment
Iowa Code § 96.6(2) – Timely Appeal

STATEMENT OF THE CASE:

Jonathan E Hinderliter, the claimant/appellant, filed an appeal from the October 9, 2020, (reference 03) unemployment insurance (UI) decision that denied benefits as of July 5, 2020. The parties were properly notified of the hearing. A telephone hearing was held on October 15, 2021. Mr. Hinderliter participated and testified. The employer did not register for the hearing and did not participate. The administrative law judge took official notice of the administrative record.

ISSUES:

Is Mr. Hinderliter's appeal filed on time?
Is Mr. Hinderliter able to and available for work?
Is Mr. Hinderliter temporarily or partially unemployed?
If so, is the employer's account subject to charge?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Mr. Hinderliter at the correct address on October 9, 2020. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development (IWD) Appeals Section by October 19, 2020.

Mr. Hinderliter received the decision in the mail. Mr. Hinderliter contacted IWD because IWD had previously issued a decision finding him eligible for benefits. Mr. Hinderliter had initially filed his claim early. Mr. Hinderliter wanted to know why IWD found him eligible, and then later found him not eligible. Mr. Hinderliter also did not understand why his co-workers, who were in a similar situation as he, were eligible for benefits, but he was not. The representative told Mr. Hinderliter about his appeal rights.

IWD issued three additional decisions, one dated October 21, 2020 (reference 04) finding Mr. Hinderliter not eligible for benefits, and two dated August 20, 2021 finding Mr. Hinderliter was overpaid REGULAR UI benefits, and Federal Pandemic Unemployment Compensation (FPUC) benefits. Mr. Hinderliter received at least one of those decisions. Mr. Hinderliter filed an appeal online on August 24, 2021. The appeal was received by Iowa Workforce Development on August 24, 2021. IWD set up appeals for the two overpayment decisions, the reference 03 decision and the reference 04 decision.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Hinderliter's appeal of the reference 03 decision 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. Hinderliter received the decision in the mail before the deadline and, therefore, could have filed an appeal prior to the appeal deadline. The notice provision of the decision was valid. Mr. Hinderliter's delay in filing his appeal 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 in filing her appeal before the deadline. Mr. Hinderliter's appeal was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issues in this matter.

DECISION:

Mr. Hinderliter's appeal was not filed on time. The October 9, 2020, (reference 03) decision is affirmed.



Daniel Zeno
Administrative Law Judge
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October 21, 2021
Decision Dated and Mailed

dz/ol