

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

**MELISSA ZEIMET**

Claimant

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**APPEAL NO. 24A-UI-02421-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/01/24**

**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 March 25, 2025, Melissa Zeimet (claimant) filed a late appeal from the March 7, 2025 (reference 03) decision. The reference 03 decision denied benefits for the week ending February 8, 2025, based on Ms. Zeimet's weekly claim report in which she indicated she was not able and/or not available for work. After due notice was issued, a hearing was held on April 16, 2025. Ms. Zeimet participated. There were three appeal numbers set for a consolidated hearing: 25A-UI-02421-JT-T, 25A-UI-02422-JT-T, and 25A-UI-02423-JT-T. Exhibits A through E were received into evidence. The administrative law judge took official notice of the following Agency administrative records: the reference 03, 04 and 05 decisions, DBRO, KCCO, KFFV, NMRO, and KLOG.

**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:

Claimant Melissa Zeimet established an original claim for benefits that was effective December 1, 2024. At the time Ms. Zeimet established her claim, she provided IWD a West Des Moines mailing address. Ms. Zeimet has not resided at that address at any time she filed her original claim for benefits but has her mail directed to that address. Ms. Zeimet's ex-husband resides at the West Des Moines address. Ms. Zeimet has an arrangement with her ex-husband whereby he holds onto her mail until she stops by to collect it. Ms. Zeimet generally collects the mail every couple of weeks or so.

On March 7, 2025, Iowa Workforce Development mailed two decisions (reference 03 and 04) to Ms. Zeimet's West Des Moines address of record. The reference 03 decision denied benefits for the week ending February 8, 2025, based on Ms. Zeimet's weekly claim report in which she indicated she was not able and/or not available for work. The reference 04 decision denied

benefits for the period beginning February 23, 2025, based on the IWD deputy's conclusion that Ms. Zeimet failed to report as directed for a fact-finding interview during that week and, therefore, did not meet the able and available requirements effective February 23, 2025. Ms. Zeimet had discontinued her claim for benefits after the week that ended February 15, 2025.

The reference 03 and 04 decisions each stated the decision would become final unless an appeal was postmarked by March 17, 2025 or was received by the Appeals Section by that date. Each decision included clear and concise instructions for filing an appeal online, by fax, by email and by mail. The United States Postal Service delivered both decisions to the address of record in a timely manner, prior to the deadline for appeal. Ms. Zeimet did not file an appeal from either decision by the March 17, 2025 appeal deadline.

On March 20, 2025, IWD mailed a reference 05 overpayment decision to Ms. Zeimet's address of record. The overpayment decision held that Ms. Zeimet was overpaid \$620.00 in unemployment insurance benefits for the week that ended February 8, 2025, based on the March 7, 2025 decision that denied benefits for that week. The reference 05 overpayment decision included a March 30, 2025 deadline for appeal.

On March 24, 2024, Ms. Zeimet collected the reference 03, 04 and 05 decisions from the West Des Moines address of record.

On March 25, 2024, Ms. Zeimet completed and transmitted an online appeal from the March 20, 2025 (reference 05) overpayment decision. The Appeals Bureau received the appeal on March 25, 2025 and treated it as an appeal from the reference 03, 04 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 87124.27(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 87124.27(1)(c).

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 87124.27(2)(c).

The evidence in the record establishes an untimely appeal from the March 7, 2025 (reference 03) decision. The evidence establishes that the decision was delivered to the address of record in a timely manner, that Ms. Zeimet had a reasonable opportunity to file an appeal by the March 17, 2025 appeal deadline, but that Ms. Zeimet delayed collecting the correspondence from the address of record to March 24, 2025 and delayed filing the appeal to March 25, 2025. The late filing of the appeal was attributable to Ms. Zeimet's decision to have her mail forwarded to an address where she does not reside and to her failure to collect her mail from that address in a timely manner. The late filing of the appeal was not attributable to the Iowa Workforce Development error or misinformation or 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 87124.27(2). Because the appeal was untimely, the administrative law judge lacks jurisdiction to disturb the decision from which Ms. Zeimet appeals in the present matter. 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 March 7, 2025 (reference 03) decision was untimely. The decision that denied benefits for the week that ended February 8, 2025 remains in effect.



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James E. Timberland  
Administrative Law Judge

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April 24, 2025  
Decision Dated and Mailed

JET/jkb

**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](http://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](http://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.