

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

REBECCA B DARLING

Claimant

APPEAL NO. 12A-UI-12232-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CASEY'S MARKETING COMPANY

Employer

OC: 07/29/07

Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

An appeal file was generated from an unemployment insurance decision dated April 6, 2011, reference 01, that concluded the claimant voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on November 5, 2012. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

ISSUE:

Was the appeal in this case filed timely?

FINDINGS OF FACT:

An unemployment insurance decision was mailed to the claimant's last-known address of record on April 6, 2011. The decision concluded she voluntarily quit without good cause and stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by April 16, 2011.

The claimant received the decision within the ten-day period for appealing the decision. She did not appeal the decision. She later filed a written appeal from an overpayment decision issued on September 24, 2012, that was based on the disqualification decision. The claimant did not intend to appeal the disqualification decision because she did not know it would affect the EUC benefits she was receiving.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant filed a timely appeal from the disqualification decision issued on April 6, 2011.

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last known address. Iowa Code § 96.6-2.

The Iowa Supreme Court has ruled that appeals from unemployment insurance decisions must be filed within the time limit set by statute and the administrative law judge has no authority to review a decision if a timely appeal is not filed. Franklin v. IDJS, 277 N.W.2d 877, 881 (Iowa 1979); Beardslee v. IDJS, 276 N.W.2d 373 (Iowa 1979). In this case, the claimant's appeal was filed after the deadline for appealing expired.

The next question is whether the claimant had a reasonable opportunity to file 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). The claimant had a reasonable opportunity to file a timely appeal but decided that she would not appeal because she did not know it would affect the EUC benefits she was receiving.

The appeal from the disqualification decision was not timely. The overpayment decision is the subject of a separate appeal in 12A-UI-12233-SWT.

DECISION:

The unemployment insurance decision dated April 6, 2011, reference 01, is affirmed. The appeal in this case was not timely, and the unemployment insurance decision disqualifying the claimant from receiving benefits remains in effect.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs