

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

STACIA GAA
Claimant

DANVILLE COMMUNITY SCHOOL DIST
Claimant

APPEAL 22A-UI-01288-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/08/20
Claimant: Appellant (1)

Iowa Code §96.6(2) – Timely Appeal
Iowa Code § 96.4(5 – Reasonable Assurance

STATEMENT OF THE CASE:

Stacia Gaa, the claimant/appellant, filed an appeal from the December 1, 2021, (reference 03) unemployment insurance (UI) decision that denied REGULAR UI benefits as of May 31, 2020 because Ms. Gaa was unemployed from an educational institution between academic years or terms. The parties were properly notified about the hearing. A telephone hearing was held on February 4, 2022. Ms. Gaa participated and testified. Daniel Gaa, Ms. Gaa's husband, testified in her favor. The employer participated through Janelle Schneiderman, business manager. The administrative law judge took official notice of the administrative record.

ISSUES:

Is Ms. Gaa's appeal filed on time?
Does Ms. Gaa have reasonable assurance of continued employment in the next school term or year?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Ms. Gaa at the correct address on December 1, 2021. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development (IWD) Appeals Section by December 11, 2021. If the date falls on a Saturday, Sunday, or legal holiday, the appeal period is extended to the next working day. December 11, 2021 was a Saturday; therefore, the deadline was extended to Monday, December 13, 2021.

Ms. Gaa received the decision in the mail on, or before, December 9, 2021. Ms. Gaa typed an appeal letter and signed it on December 9, 2021. She sent her appeal to IWD via United Parcel Services (UPS) on December 9, 2021. IWD received Ms. Gaa's appeal on December 14, 2021.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Gaa'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).

Ms. Gaa received the reference 03 decision before the deadline and, therefore, could have filed an appeal prior to the appeal deadline. The notice provision of the decision was valid. Ms. Gaa submitted her appeal via UPS. Appeals submitted by any means other than the United States Postal Service or SIDES are considered filed on the date they are received. IWD received Ms. Gaa's appeal via UPS on December 14, 2021, which is after the December 13, 2021 deadline. Ms. Gaa's delay in filing her 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. Ms.

Gaa's appeal of the reference 03 decision was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

DECISION:

Ms. Gaa's appeal of the reference 03 decision was not filed on time. The December 1, 2021, (reference 03) decision is affirmed.



Daniel Zeno
Administrative Law Judge
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Unemployment Insurance Appeals Bureau
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February 25, 2022
Decision Dated and Mailed

dz/scn