

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

MICHAEL WOODWARD
Claimant

PARKER-HANNIFIN CORP
Employer

APPEAL 20A-UI-05818-AW-T
ADMINISTRATIVE LAW JUDGE
DECISION

OC: 03/22/20
Claimant: Appellant (4)

Iowa Code § 96.4(3) – Ability to and Availability for Work
Iowa Admin. Code r. 871-24.23 – Availability Disqualifications
Iowa Code § 96.3(7) – Recovery of Benefit Overpayment
Iowa Admin. Code r. 871-24.10 – Employer/Representative Participation Fact-finding Interview
Iowa Code § 96.6(2) – Filing – Timely Appeal
Iowa Admin. Code r. 871-24.35 – Filing

STATEMENT OF THE CASE:

Claimant filed an appeal from the May 28, 2020 (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on July 9, 2020, at 10:00 a.m. Claimant participated. Employer participated through Tyler Leubner, Human Resources Generalist II, and Kendra Cos, Plant Manager. No exhibits were admitted. Official notice was taken of the administrative record.

ISSUES:

Whether claimant filed a timely appeal.
Whether claimant is able to and available for work.
Whether claimant was overpaid benefits.
Whether claimant is eligible for Federal Pandemic Unemployment Assistance.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to claimant at the correct address on May 28, 2020. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by June 7, 2020. However, if the due date falls on a Saturday, Sunday or legal holiday, the appeal period is extended to the next working day. June 7, 2020 was a Sunday, so the deadline was extended to Monday, June 8, 2020. Claimant received the decision after June 8, 2020. Claimant appealed the decision online on June 10, 2020. Claimant's appeal was received by Iowa Workforce Development on June 10, 2020.

Claimant is employed as a full-time production team lead with Parker-Hannifin Corporation. Claimant works Monday through Friday. From March 24, 2020 until March 31, 2020, claimant was absent from work on the advice of his physician due to underlying health issues and the risk of contracting Covid-19. From April 1, 2020 until June 14, 2020, claimant was laid off by

employer due to lack of work as a result of Covid-19. During the layoff, claimant worked no hours and earned no wages. Since June 15, 2020, claimant has worked his regular hours.

Claimant filed an initial claim for benefits effective March 22, 2020. Claimant filed a weekly claim for benefits for the week ending March 28, 2020 and reported earnings of \$100.00. Claimant received a regular unemployment insurance benefit payment in the gross amount of \$481.00 for the benefit week ending March 28, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's appeal was timely.

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)(c) 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:

(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). The 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).

The record shows that the appellant did not have a reasonable opportunity to file a timely appeal, as he received the decision after the appeal deadline. Claimant's delay in submitting his appeal was due to agency error or misinformation or delay of the United States Postal Service. Claimant's appeal is timely.

The next issue to be addressed is whether claimant was able to and available for work. For the reasons that follow, the administrative law judge concludes claimant was not able to and

available for work for the benefit week ending March 28, 2020; therefore, benefits are denied. Claimant was temporarily unemployed effective the benefit week ending April 4, 2020. The requirement that claimant be able to and available for work is waived; therefore, benefits are allowed, provided claimant is otherwise eligible.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work. This subsection is waived if the individual is deemed partially unemployed, while employed at the individual's regular job, as defined in section 96.19, subsection 38, paragraph "b", unnumbered paragraph (1), or temporarily unemployed as defined in section 96.19, subsection 38, paragraph "c". The work search requirements of this subsection and the disqualification requirement for failure to apply for, or to accept suitable work of section 96.5, subsection 3 are waived if the individual is not disqualified for benefits under section 96.5, subsection 1, paragraph "h".

Iowa Admin. Code r. 871-24.22(2)j provides:

Benefit eligibility conditions. For an individual to be eligible to receive benefits the department must find that the individual is able to work, available for work, and earnestly and actively seeking work. The individual bears the burden of establishing that the individual is able to work, available for work, and earnestly and actively seeking work.

j. Leave of absence. A leave of absence negotiated with the consent of both parties, employer and employee, is deemed a period of voluntary unemployment for the employee-individual, and the individual is considered ineligible for benefits for the period.

Iowa Admin. Code r. 871-24.23(6), (10) provide:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(6) If an individual has a medical report on file submitted by a physician, stating such individual is not presently able to work.

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

From March 24, 2020 through March 31, 2020, claimant was absent from work due to a voluntary leave of absence on the advice of his physician and as a result of Covid-19. While claimant may have had a good reason for his absence, he is not considered able to and available for work under Iowa law. Therefore, claimant is not eligible for benefits for the benefit week ending March 28, 2020.

From April 1, 2020 through June 14, 2020, claimant was temporarily unemployed due to a lay off by employer. Accordingly, the requirement that claimant is able to and available for work is waived. Claimant is eligible for benefits effective the benefit week ending April 4, 2020.

The next issue to be determined is whether claimant has been overpaid benefits. For the reasons that follow, the administrative law judge concludes claimant was overpaid benefits for the benefit week ending March 28, 2020, which must be repaid.

Iowa Code section 96.3(7) states:

7. Recovery of overpayment of benefits.

a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Benefits were paid to which claimant was not entitled. The administrative law judge concludes that claimant has been overpaid regular unemployment benefits in the gross amount of \$481.00 for the benefit week ending March 28, 2020. Claimant is required to repay those benefits. The issue of eligibility for Federal Pandemic Unemployment Compensation for the week ending March 28, 2020 is moot, because the program did not take effect until March 29, 2020.

Because claimant is eligible for benefits effective the benefit week ending April 4, 2020, the issue of overpayment is moot for benefits paid for that week and subsequent weeks. Because claimant is eligible for regular unemployment insurance benefits, he is also eligible for Federal Pandemic Unemployment Compensation effective the benefit week ending April 4, 2020. See PL 116-136 §2104(B).

DECISION:

Claimant's appeal was timely. The May 28, 2020 (reference 01) unemployment insurance decision is modified in favor of appellant. Claimant was not able to and available for work for the benefit week ending March 28, 2020; benefits are denied. Claimant is overpaid regular unemployment insurance benefits in the gross amount of \$481.00, which must be repaid. Claimant was temporarily unemployed effective the week ending April 4, 2020; thus, the requirement that claimant be able to and available is waived. Benefits are allowed effective the benefit week ending April 4, 2020, provided claimant is otherwise eligible. The issue of overpayment for the benefit week ending April 4, 2020 and subsequent weeks is moot. Claimant is eligible for Federal Pandemic Unemployment Compensation effective the benefit week ending April 4, 2020.



Adrienne C. Williamson
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax (515)478-3528

July 17, 2020 _____
Decision Dated and Mailed

acw/sam

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits.