

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

**SKYLAR KNIGHT**  
Claimant

**APPEAL NO: 21A-UI-04922-SN-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 10/27/19**  
**Claimant: Appellant (1R)**

PL116-136, Sec. 2104 – Federal Pandemic Unemployment Compensation (FPUC)

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the January 25, 2021, (reference 04) unemployment insurance decision that concluded he was overpaid \$6,600.00 in FPUC benefits. After proper notice, a telephone hearing was conducted on April 15, 2021. The hearing was held jointly with Appeal 21A-UI-04919-SN-T and 21A-UI-04920-SN-T. The claimant participated. Official notice of the administrative records was taken. Exhibits 1, 2, 3, 4, and 5 were admitted.

**ISSUES:**

1. Did the claimant file a timely appeal? Are there other grounds to find it timely?
2. Has the claimant been overpaid any unemployment insurance benefits?

**FINDINGS OF FACT:**

The claimant filed a new claim for unemployment insurance benefits with an effective date of October 27, 2019.

The claimant received federal unemployment insurance benefits through Federal Pandemic Unemployment Compensation (FPUC). Claimant received \$6,600.00 in federal benefits for the period of April 19, 2020 and July 4, 2020.

The unemployment insurance decision that disqualified the claimant from receiving unemployment insurance benefits has been affirmed in a decision of the administrative law judge in appeal 21A-UI-04919-SN-T.

A disqualification decision was mailed to the claimant's last known address of record on January 23, 2021. (Exhibit D-3) The decision reached his home within ten days. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by February 3, 2021. The appeal was not filed until February 6, 2021, which is after the date noticed on the disqualification decision. (Exhibit D-2) The claimant attributed the delay in filing to his own time management and being away from his home during inopportune times.

## REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes he does not have jurisdiction to evaluate the merits of this case because the claimant's appeal is untimely and there are not reasonable grounds to consider it timely.

Iowa Code section 96.6(2) provides, in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was issued, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The ten calendar days for appeal begins running on the mailing date. The "decision date" found in the upper right-hand portion of the 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).

The record in this case shows 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). 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 have a reasonable opportunity to file a timely appeal.

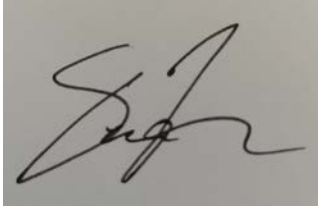
The administrative law judge concludes that failure to file a timely appeal within the time prescribed by the Iowa Employment Security Law was not due to any Agency error or misinformation or delay or other action of the United States Postal Service pursuant to 871 IAC 24.35(2). The administrative law judge further concludes that the appeal was not timely filed pursuant to Iowa Code § 96.6(2), and the administrative law judge lacks jurisdiction to make a determination with respect to the nature of the appeal. See *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979) and *Franklin v. IDJS*, 277 N.W.2d 877 (Iowa 1979).

## DECISION:

The unemployment insurance decision dated January 25, 2021, (reference 04), is affirmed. The claimant was overpaid \$6,600.00 in Federal Pandemic Unemployment Compensation (FPUC).

**REMAND:**

The claimant's overpayment records in Great Plains show he owes on another FPUC overpayment of \$6,600.00. This other overpayment is factored into his total balance, but appears to be a duplicate entry because it has the same underlying information. The administrative law judge is remanding this issue to the Benefits Bureau to determine if this is a duplicate entry. If it is not a duplicate entry, then the claimant should be sent notice of overpayment with proper notice.

A handwritten signature in black ink, appearing to read 'Sean M. Nelson', is written over a light gray rectangular background.

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Sean M. Nelson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 725-9067

April 20, 2021  
Decision Dated and Mailed

smn/scn