

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

MUHANAD MIN ALLA
Claimant

APPEAL NO. 22A-UI-01269-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

THE UNIVERSITY OF IOWA
Employer

OC: 05/31/20
Claimant: Appellant (1R)

Iowa Code Section 96.6(2) – Timeliness of Appeal
Iowa Code Section 96.4(5) – Between Academic Terms Disqualification

STATEMENT OF THE CASE:

The claimant, Muhanad Min Alla, filed a late appeal from the February 16, 2021, reference 02, decision that allowed benefits based on earnings from “noneducational” employers, but that removed from the claim wages earned from employment with The University of Iowa, based on the deputy’s conclusion that the claimant was laid off between successive years or terms and had reasonable assurance of employment in the next term. After due notice was issued, a hearing was held on February 4, 2022. Claimant participated. Scott Coons represented the employer. There were five appeal numbers set for a consolidated hearing: 22A-UI-01269-JTT, 22A-UI-01270-JTT, 22A-UI-01271-JTT, 22A-UI-01272-JTT and 22A-UI-01273-JTT. Exhibit A, the five-page appeal packet, was received into evidence. The administrative law judge took official notice of the following Agency administrative records: the DBIN, KPYX, NMRO, KFFV, KLOG, WAGE-A, the June 9, 2020 Monetary Determination, the February 3, 2021, correspondence submitted by the claimant in lieu of participating in the February 9, 2021 (reference 02) fact-finding interview, the February 16, 2021 Corrected Monetary Determination, reference 02, 03, 05, 06 and 07 decisions, the August 9, 2021 Claim Detail reflecting denial of PUA benefits. Sudanese-English interpreter Miriam Mohammed of CTS Language Link assisted with the appeal hearing.

ISSUE:

Whether the claimant’s appeal from the February 16, 2021, reference 02, decision 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: The claimant established an original claim for benefits that was effective May 31, 2020.

On January 26, 2021, Iowa Workforce Development mailed notice to the claimant of a February 9, 2021 fact-finding interview concerning the claimant and employer The University of Iowa. The matter was designated the reference 02 matter.

On February 3, 2021, the claimant submitted a brief written statement to Iowa Workforce Development in lieu of appearing for the February 9, 2021 fact-finding interview. The claimant indicated in his written statement that he planned to travel overseas on February 5, 2021.

The claimant traveled to Sudan on or about February 5, 2021. The claimant's permanent address was in Iowa City. The claimant arranged for his roommate to alert him to mail directed to the claimant and delivered to the claimant's Iowa City residence during the claimant's extended absence.

On February 9, 2021, an Iowa Workforce Development Benefits Bureau deputy held the scheduled fact-finding interview pertaining to the reference 02 matter. The deputy made an unsuccessful attempt to reach the claimant for the fact-finding interview at the claimant's telephone number of record.

On February 16, 2021, Iowa Workforce Development mailed the February 16, 2021, reference 02, decision to the claimant's Iowa City last-known address of record. The February 16, 2021, reference 02, decision allowed benefits to the claimant based on earnings from "noneducational" employers, but removed the claimant's University of Iowa wages from the claim, based on the deputy's conclusion that the claimant was laid off between successive years or terms and had reasonable assurance of employment in the next term.

The February 16, 2021, reference 02, decision stated that the decision would become final unless an appeal was postmarked by February 26, 2021 or was received by the Appeals Section by that date. The reference 02 decision was delivered to the claimant's Iowa City address in a timely manner, prior to the deadline for appeal. The claimant's roommate alerted the claimant to the correspondence in a timely manner. The claimant did not take steps to file an appeal from the decision by the appeal deadline.

In connection with the February 16, 2021, reference 02, decision, Iowa Workforce Development "redetermined" the claimant's benefit eligibility. On February 16, 2021, Iowa Workforce Development mailed a "Corrected" Monetary Determination to the claimant. The "Corrected" Monetary Determination implemented and reflected the removal of the University of Iowa base period wages from the claim. This "redetermination" reduced the claimant's weekly benefit amount from \$481.00 to \$309.00 and reduced the claimant's maximum benefit amount from \$11,799.67 to \$3,512.97. The Corrected Monetary Determination included a 10-day deadline for appeal. The weight of the evidence indicates the Corrected Monetary Determination was delivered to the claimant's Iowa City address in a timely manner, prior to the deadline for appeal. The claimant did not take steps to file an appeal from the Corrected Monetary Determination by the appeal deadline.

On March 23, 2021, Iowa Workforce Development Benefits Bureau mailed a March 23, 2021, reference 03, decision to the claimant's Iowa City address of record. The reference 03 decision disqualified the claimant for unemployment insurance benefits, based on the deputy's conclusion that the claimant had voluntarily quit the University of Iowa Employment on November 18, 2020 without good cause attributable to the employer. The reference 03 decision stated that the decision would become final unless an appeal was postmarked by April 2, 2021 or was received by the Appeal Section by that date. The reference 03 decision was delivered to the claimant's Iowa City address of record in a timely manner, prior to the deadline for appeal. The claimant's roommate alerted the claimant to the correspondence in a timely manner. The claimant did not take steps to file an appeal from the decision by the appeal deadline.

On June 20, 2021, the claimant returned to Iowa City, following his extended trip to Sudan. After the claimant returned to Iowa City, the claimant continued for several months to take no steps to appeal the reference 01 decision, the reference 03 decision, or the Corrected Monetary Determination.

On December 7, 2021, Iowa Workforce Development mailed three overpayment decisions to the claimant at his Iowa City last-known address of record. The reference 05 decision held the claimant was overpaid \$4,128.00 in regular state benefits for 24 weeks between May 31, 2020 and November 14, 2020, based on the February 2021 redetermination of benefits that reduced the weekly benefit amount and the maximum benefit amount. The reference 06 decision held the claimant was overpaid \$3,995.67 in regular benefits for 10 weeks between November 22, 2020 and January 30, 2021, due to the decision that disqualified the claimant for benefits in connection with a voluntary quit from The University of Iowa. The reference 07 decision held the claimant was overpaid \$1,500.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for five weeks between December 27, 2020 and January 30, 2021, due to the reference 03 decision that disqualified the claimant for benefits in connection with a voluntary quit from The University of Iowa. Each of the overpayment decisions included a December 17, 2021 deadline for appeal.

On December 13, 2021, the claimant went to the Iowa City IowaWORKS center. The claimant completed an appeal form regarding the reference 05 and reference 06 decisions. The claimant delivered the completed appeal forms to an Agency representative, who faxed the appeal forms, along with copies of the reference 05 and reference 06 decisions and a March 11, 2021 PEUC notice/decision, to the Appeals Bureau. The Appeals Bureau received the appeal forms on December 13, 2021 and treated them as also late appeals from the February 16, 2021, reference 02, decision and the March 23, 2021, reference 03, decision.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6(2) 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. 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. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of

the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

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 871-24.35(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 871-24.35(1)(b).

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 871-24.35(2)(c).

The claimant's appeal from the February 16, 2021, reference 02, decision is untimely. The decision was delivered to the claimant's address of record in a timely manner. Given the timely delivery of the decision and the claimant's arrangement with his roommate, the claimant had a reasonable opportunity to file an appeal by the February 26, 2021 deadline. The claimant did not file an appeal by the appeal deadline. The late filing of the appeal was not attributable to Iowa Workforce Development or to the United States Postal Service. See Iowa Administrative Code rule 871-24.35(2). There is not good cause to treat the late appeal as a timely appeal. Even if there had been good cause for a somewhat late filing, based on the claimant's being in Sudan at the time the appeal was due, the evidence establishes unreasonable delay in filing the appeal. Even after the claimant returned to Iowa City in June 2021, the claimant took no action on the matter until almost six months later. Because the appeal was untimely, administrative law judge lacks jurisdiction to disturb the February 16, 2021, reference 02, decision. 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 February 16, 2022, reference 02, decision was untimely. The decision that that allowed benefits based on earnings from "noneducational" employers, but that removed The University of Iowa wages, based on the deputy's conclusion that the claimant was laid off between successive years or terms and had reasonable assurance of employment in the next term, remains in effect.

This matter is **remanded** to the Benefits Bureau for consideration of the additional information provided by the employer concerning the between-academic-terms disqualification and further action the Benefits Bureau deems appropriate, if any. Though the administrative law judge lacks jurisdiction to disturb the reference 02 decision, the employer advises the claimant's employment as a kitchen worker at The University of Iowa Hospitals & Clinics was an ongoing appointment, was not tied to an academic calendar, and that the employer believes the between academic terms disqualification would not apply to the claimant's claim. Perhaps a decision regarding availability might have been more appropriate.



James E. Timberland
Administrative Law Judge

March 4, 2022
Decision Dated and Mailed

jet/mh