

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**DEMARCO L CAVIL**  
Claimant

**APPEAL NO. 08A-UI-01267-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**OC: 01/21/01 R: 02  
Claimant: Appellant (1)**

Section 96.5(1) – Quit  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant, DeMarco Cavil, filed an appeal from a decision dated March 2, 2001, reference 02. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held by telephone conference call on February 20, 2008. The claimant participated on his own behalf. Exhibit D-1 was admitted into the record.

**ISSUE:**

The issue is whether the appeal is timely.

**FINDINGS OF FACT:**

A decision was mailed to the claimant's last-known address of record on March 2, 2001. The claimant received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by March 12, 2001. The appeal was not filed until February 6, 2008, which is after the date noticed on the decision.

**REASONING AND CONCLUSIONS OF LAW:**

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 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.

The claimant maintains he did not receive the decision in this case although it was sent to his address of record and the United States Postal Service did not return it to Iowa Workforce Development. The administrative law judge found the claimant's testimony lacking credibility as he maintained he knew he had been disqualified but also stated he did not receive the decision. This is inconsistent. In addition, he contradicted himself saying at one time he "got the papers" and at other times stating he did not. In addition, he also testified he "got the money" then would state he did not.

The claimant has failed to meet his burden of proof that he filed a timely appeal and the appeal therefore cannot be accepted as timely.

**DECISION:**

The decision of the representative dated March 2, 2001, reference 02, is affirmed. The appeal in this case was not timely, and the decision of the representative remains in effect. The claimant is disqualified for unemployment benefits.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/css