

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**CHARLES F CONRAD**  
Claimant

**WHIRLPOOL CORPORATION**  
Employer

**APPEAL 22A-UI-06943-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/22/19**  
**Claimant: Appellant (1)**

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Iowa Code § 96.6(2) – Timeliness of Appeal  
Iowa Code § 96.4(3) – Ability to and Availability for Work  
Iowa Admin. Code r. 871-24.23(10) – Leave of Absence

**STATEMENT OF THE CASE:**

On March 24, 2022, claimant Charles F. Conrad filed an appeal from the January 22, 2021 (reference 04) unemployment insurance decision that denied benefits effective July 19, 2020, based on a determination that the claimant was on a leave of absence. The parties were properly notified of the hearing. A telephonic hearing was held at 10:00 a.m. on Wednesday, May 4, 2022. Appeal numbers 22A-UI-06943-LJ-T, 22A-UI-06947-LJ-T, 22A-UI-06949-LJ-T, and 22A-UI-06952-LJ-T were heard together and created one record. The claimant, Charles F. Conrad, participated personally. The employer, Whirlpool Corporation, did not appear for or participate in the hearing. Department's Exhibits D-1 through D-5 were admitted into the record to assist with the timeliness determination. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Did the claimant file a timely appeal?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The decision finding claimant was ineligible for benefits because he was on a leave of absence was mailed to his last known address of record on January 22, 2021. He did not receive the decision because he did not have his correct address on file with Iowa Workforce Development. The first sentence of the decision states, "If this decision denies benefits and is not reversed on appeal, it may result in an overpayment which you will be required to repay." The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by February 1, 2021. The appeal was not filed until March 24, 2022, which is after the date noticed on the disqualification decision.

Claimant moved in November 2019, prior to opening his claim for unemployment insurance benefits. However, when he opened his claim in December 2019, he used his old address and

not his new address. Therefore, all of the documents pertaining to claimant's claim for unemployment insurance benefits were mailed to his former address.

While claimant denies receiving the decision that notified him he was not eligible for benefits, he admits receiving the three overpayment decisions mailed in late October 2021. (Department Exhibits D-2, D-3, and D-4) Claimant did not understand why Iowa Workforce Development believed he had been overpaid benefits, so he put the decisions in his drawer. He believed there was a simple miscommunication or mistake that led to the overpayments. He did not file an appeal, call the agency, or make any effort to resolve the issue at that time.

At some point in 2022, claimant received a notice from Iowa Workforce Development stating he needed to repay \$4,300.00. This led claimant to file his appeal. Claimant does not understand why this is happening.

### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant failed to file a timely appeal.

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.

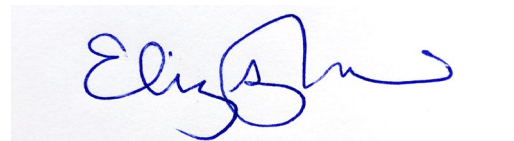
The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 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).

Here, the claimant did not receive the initial ineligibility decision because he had listed his incorrect address with Iowa Workforce Development. When the claimant made no effort to ensure the agency had his correct mailing information at the outset of his claim, he could not possibly expect to receive timely and accurate information pertaining to his claim. Even accepting that claimant did not receive the ineligibility decision and could not appeal it, he acknowledges receiving the overpayment decisions in late 2021. Rather than appealing those decisions, claimant placed them in a drawer. Claimant's decision to simply ignore the overpayment decisions is beyond explanation.

Claimant's delay in appealing 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. Claimant's appeal was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

**DECISION:**

The January 22, 2021 (reference 04) unemployment insurance decision is affirmed. Claimant failed to file a timely appeal. The decision of the representative remains in effect.



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Elizabeth A. Johnson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

May 10, 2022  
Decision Dated and Mailed

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