

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**LESLEY S GILL**

Claimant

**APPEAL NO: 14A-UI-12223-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA PHYSICIANS CLINIC MEDICAL**

Employer

**OC: 08/10/14**

**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit  
Iowa Code § 96.6(2) – Timeliness of Appeal

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's September 5, 2014 determination (reference 01) that disqualified her from receiving benefits and held the employer's account exempt from charge because she had voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant participated at the December 15 hearing. The employer did not respond to the hearing notice or participate at the hearing. Based on the evidence, the claimant's arguments, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

**ISSUE:**

Did the claimant file a timely appeal or establish a legal excuse for filing a late appeal?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of August 10, 2014. On June 20, 2014, the claimant submitted her resignation, but understood the employer did not accept her resignation. Since the employer continued to pay her short-term disability benefits, the claimant believed the employer still considered her an employee. On August 28, 2014, the claimant's physician released her to return to work.

After the claimant participated at a fact-finding interview, she received the September 5 determination. The claimant received the determination shortly after September 5, 2014. Even though the claimant saw the September 15 deadline to appeal, she did not appeal this determination until November 25, 2014.

The claimant was confused about the unemployment insurance process. The claimant did not understand why the determination held that she voluntarily quit when she thought the employer had not accepted her resignation and had discharged her.

The claimant did not file an appeal from the determination until November 25 or after she reopened her claim during the week of October 26.

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

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last-known address. Iowa Code § 96.6(2). The Iowa Supreme Court has ruled that appeals must be filed within the time limit set by statute and the administrative law judge has no authority to review a decision if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979); *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979). In this case, the claimant filed her appeal after the September 15, 2014 deadline for appealing expired.

The next question is whether the claimant had a reasonable opportunity to file a timely appeal. *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant received the September 5 determination in time to file her appeal by September 15, but did not. Even though the claimant had a brain injury, her physician released her to return to work on August 28, 2014. Although the claimant asserted she did not understand the process or why the determination held she had voluntarily quit, she did not assert that she did not understand how to appeal. Since the claimant's physician released her to return to work on August 28, the claimant's assertion that her brain injury was responsible for not filing a timely appeal is not supported by the facts.

The claimant's failure to file a timely appeal was not due to any Agency error or misinformation or delay or other action of the United States Postal Service, which under 871 IAC 24.35(2) excuses the delay in filing an appeal. The claimant did not establish a legal excuse for filing a late appeal. The Appeals Bureau does not have the legal authority to make a decision on the merits of the claimant's appeal.

Even though the claimant presented information concerning the reasons for her employment separation, this issue cannot be addressed since the claimant did not file a timely appeal.

## **DECISION:**

The representative's September 5, 2014 determination (reference 01) is affirmed. The claimant did not file a timely appeal or establish a legal excuse for filing a late appeal. The Appeals Bureau does not have any legal jurisdiction to address the merits of the claimant's appeal. This means as of August 10, 2014, the claimant remains disqualified from receiving unemployment insurance benefits until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/css