

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PIERCE J MEADE
Claimant

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

APPEAL 24R-UI-02013-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/24/22
Claimant: Appellant (1)**

Iowa Code § 96.6(2) – Timely Appeal
Iowa Code § 96.4(3) – Able to and Available for Work

STATEMENT OF THE CASE:

Pierce J. Meade, the claimant/appellant,¹ appealed the Iowa Workforce Development (IWD) March 2, 2023, (reference 06) unemployment insurance (UI) decision. IWD notified Mr. Meade that he is required to seek work and keep a record of his efforts “...during each week [UI] benefits are claimed, after the date of this decision.” IWD did not deny Mr. Meade UI benefits at this time. On December 28, 2023, the Iowa Department of Inspections, Appeals and Licensing (DIAL), UI Appeals Bureau mailed a notice of hearing to Mr. Meade for a telephone hearing scheduled for January 10, 2024.

Mr. Meade did not participate in the January 10 hearing. So, the January 11, 2024 Administrative Law Judge Decision in Appeal 23A-UI-11933-DZ-T dismissed Mr. Meade’s appeal. Mr. Meade appealed the Administrative Law Judge Decision to the Employment Appeal Board (EAB). The February 19, 2024 EAB Decision concluded that Mr. Meade did not participate in the January 10 hearing because he did not receive the notice of hearing until after the hearing date. The EAB remanded (sent back) the appeal back to an administrative law judge for a new hearing. On February 28, 2024, the DIAL, UI Appeals Bureau mailed a notice of hearing to Mr. Meade for a telephone hearing scheduled for March 18, 2024

The administrative law judge held a telephone hearing on March 18, 2024. Mr. Meade participated in the hearing personally. The administrative law judge took official notice of the administrative record.

ISSUES:

Did Mr. Meade appeal on time?
Is Mr. Meade required to seek work?

¹ Claimant is the person who filed for UI benefits. Appellant is the person or employer who filed the appeal.

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: IWD mailed the March 2, 2023 (reference 06) UI decision to Mr. Meade at his correct address. The UI decision states that it becomes final unless an appeal is postmarked or received by the IWD Appeals Section by Sunday, March 12, 2023. If the appeal deadline falls on a Saturday, Sunday, or legal holiday, the appeal period is extended to the next working day. So, the appeal deadline was extended to Monday, March 13, 2023.

Mr. Meade was not aware of any issues receiving his mail in March 2023 and he checks his mail about once a week. Mr. Meade received the decision in the mail.

Mr. Meade had reopened his UI claim as of October 30, 2022. Mr. Meade filed weekly UI claims for 18 weeks between October 30, 2022 and March 4, 2023. Mr. Meade reported zero job searches each week for these 18 weeks. The week of March 5-11, Mr. Meade reported four job searches.

In relevant part, on October 31, 2023, IWD mailed Mr. Meade another UI decision. In this reference 17 UI decision IWD denied Mr. Meade REGULAR (state) UI benefits for the week of February 5-11, 2023 because IWD concluded he did not meet the reemployment activities requirement this week after IWD warned him about the requirement via the March 2, 2023 (reference 06) UI decision. The appeal deadline in this decision was Friday, November 10, 2023.

Mr. Meade received this decision in the mail. Mr. Meade was busy with his new job. Mr. Meade appealed online on November 13, 2023. The DIAL UI Appeals Bureau received the appeal the same day.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Mr. Meade did not appeal the March 2, 2023, (reference 06) UI decision on time.

Iowa Code § 96.6(2) provides, in relevant 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:

2. 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:
 - (2) 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.² Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid.³

Mr. Meade received the March 2, 2023 (reference 06) UI decision before the appeal deadline and, therefore, could have appealed by the deadline. The notice provision of the decision was valid. The fact that Mr. Meade reported four job searches the week of March 5-11, 2023 after reported 0 job searches for 18 weeks is evidence that Mr. Meade received the decision.

Mr. Meade's delay in appealing was not due to an error or misinformation from IWD or due to delay or other action of the United States Postal Service. Mr. Meade has not established any other good cause reason for his delay in appealing. Mr. Meade did not appeal the March 2, 2023 (reference 06) UI decision on time, so the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

² *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979).

³ *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).

DECISION:

Mr. Meade did not the March 2, 2023 (reference 06) UI decision on time. The March 2, 2023 (reference 06) UI decision is AFFIRMED.



Daniel Zeno
Administrative Law Judge

March 20, 2024
Decision Dated and Mailed

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APPEAL RIGHTS. If you disagree with this decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Avenue Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
En línea: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.