

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRIAN J BANSE  
1336 HENDERSON AVE  
DES MOINES IA 50316-1232**

**APPEAL NO. 09A-UI-17534-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CIVIC CENTER OF GREATER DES MOINES  
221 WALNUT  
DES MOINES IA 50309**

**APPEAL RIGHTS:**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to:

***Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319***

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:**

The name, address and social security number of the claimant.

A reference to the decision from which the appeal is taken.

That an appeal from such decision is being made and such appeal is signed.

The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may 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. It is important that you file your 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.

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**BRIAN J BANSE**

Claimant

**APPEAL NO. 09A-UI-17534-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CIVIC CENTER OF GREATER DES MOINES**

Employer

**OC: 08/30/09**

**Claimant: Appellant (2)**

871 IAC 24.1(113)a – Layoff  
Section 96.6-2 - Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated September 30, 2009, reference 02, that concluded he was not partially unemployed because he was working the same hours and wages as his contract of hire. A telephone hearing was held on December 31, 2009. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer.

**ISSUE:**

Did the claimant file a timely appeal?

Was the claimant laid off due to lack of work?

**FINDINGS OF FACT:**

The claimant worked for the employer on a short-term assignment for a couple of days in April 2009. He was never been called about any work since.

The claimant filed a new claim for unemployment insurance benefits effective August 30, 2009, which was primarily based on wages for full-time employment the claimant had with GEP Paypix Services LLC and Greenfields Processing Services Inc.

An unemployment insurance decision was mailed to the claimant's last-known mailing address. He was called out of town due to a family medical emergency when the decision arrived at his residence and he did not have an opportunity to appeal it until November 19, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

The issue in this case is whether the claimant filed a timely appeal. Under Iowa Code § 96.6-2, a decision is final unless appealed within ten days of mailing to the claimant. But the law excuses a late appeal if the claimant does not have 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). In this case, the appeal is deemed timely because the claimant did not have a reasonable opportunity to file a timely appeal due to a family medical emergency that took the claimant away from his residence.

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a. On the other hand, the claimant finished his short-time assignment with the employer and was not offered additional work. He was laid off due to lack of work. 871 IAC 24.1(113)a. The claimant is able and available for work.

**DECISION:**

The unemployment insurance decision dated September 30, 2009, reference 02, is reversed. The claimant is qualified to receive unemployment insurance benefits, if he is otherwise eligible.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css