

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAZAG J JUMA

Claimant

APPEAL NO. 13A-UI-06588-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ANNA ENTERPRISES

Employer

OC: 04/28/13

Claimant: Appellant (1)

871 IAC 24.27(1)(d)(2) & 24.38 (1)(c) – Respect of Prior Adjudication
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated May 13, 2013, reference 01, that concluded he was disqualified based on a decision made by the state of Minnesota regarding his separation from the employer. A telephone hearing was scheduled for June 26, 2013. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. William Van Sloun participated in the hearing on behalf of the employer and agreed that a decision could be made based on the file.

ISSUES:

Was the appeal in this case filed timely?

Is the decision made in Minnesota regarding the claimant's separation binding?

FINDINGS OF FACT:

After a contested case hearing, an administrative law judge with the state of Minnesota issued a decision on April 25, 2013, that the claimant was discharged for misconduct on February 1, 2012.

An unemployment insurance decision was mailed to the claimant's last-known address of record on May 13, 2013. The decision concluded that he was disqualified based on a decision made by the state of Minnesota regarding his separation from the employer on February 1, 2013, and stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by May 24, 2013.

The claimant never received the decision. He filed a written appeal on May 31, 2013, after finding out about the decision.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this case is whether the claimant filed a timely appeal.

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.

Since the claimant's appeal was filed late, the next question is whether the claimant had a reasonable opportunity to file an appeal in a timely fashion. Hendren v. IESC, 217 N.W.2d 255 (Iowa 1974); Smith v. IESC, 212 N.W.2d 471, 472 (Iowa 1973). The claimant did not have a reasonable opportunity to file a timely appeal because he never received the decision. Since he filed his appeal promptly after finding out he was disqualified, the appeal is deemed timely.

Both 871 IAC 24.27(1)(d)(2) and 24.38 (1)(c) require the state of Iowa to respect a decision on a separation issued in another state. The claimant had a full opportunity to be heard before the decision was issued on April 25, 2013. As a result, he was discharged for misconduct.

DECISION:

The unemployment insurance decision dated May 13, 2013, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, unless the claimant has already requalified under Minnesota law, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs