

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CADILLAC JARRIETTEL
Claimant

ALPHA SERVICES, INC
Employer

APPEAL 22A-UI-06170-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/17/21
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 17, 2021, (reference 01) unemployment insurance decision that denied benefits based upon the determination that claimant voluntarily quit employment. The parties were properly notified of the hearing. A telephone hearing was held on April 20, 2022. The claimant, Cadillac Jarriett-El, participated personally. The employer, Alpha Services, Inc., participated through testifying witness Rico Cooper, with Steve Theisen, who did not testify. Department's Exhibit D-1 was admitted.

ISSUES:

Is the claimant's appeal timely?

Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to claimant's last known address of record on November 17, 2021. Claimant's landlord had placed a vacancy notice in claimant's mailbox. Claimant did not realize for five or six months that his mail was not being delivered properly. He testified that he has "a lot going on," and did not regularly check his mail. He submitted his appeal on March 11, 2022, the same week as he discovered the disqualification decision.

Claimant was employed full time as a laborer from December 21, 2015, until this employment ended on October 6, 2021, when he quit.

Claimant moved to first shift the week of October 4, 2021. On his first day working with the first-shift supervisor, Moran Jackson, Jackson approached him and told him that if he did not like the rules, he could quit. Claimant felt harassed. In response, claimant told Jackson that he quit, and that Jackson could tell Cooper that he quit.

Prior to this, claimant had concerns about his treatment at work. In May 2021, Cooper sent some text messages to claimant that claimant found objectionable. Specifically, Cooper cursed

in the text messages and indicated that claimant was not needed if he could not follow instructions. Claimant spoke with a number of people about Cooper's messages, and stated he was considering resigning, but did not do so at that time.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's appeal is untimely.

Iowa Code section 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. Iowa Dep't of Job Serv.*, 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. Iowa Dep't of Job Serv.*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

Though claimant's landlord placed a vacancy slip in claimant's mailbox improperly, it is unreasonable that claimant would fail to check his mail and inquire about the status of his mail for between five and six months. Claimant has not demonstrated that the long delay between the issuance of the disqualification decision and the filing of his appeal was due to Agency error or delay on the part of the United States Postal Service. While the decision may have been delayed, there is no way to know when it was actually delivered, based on claimant's testimony, because he did not check his mail for a long period of time. The appeal is untimely filed.

Even if the appeal was timely, the administrative law judge would affirm the decision finding that claimant voluntarily quit employment without good cause attributable to the employer. He has not demonstrated that his reasons for leaving employment constituted good cause attributable to the employer. Benefits are denied.

DECISION:

The November 17, 2021, (reference 01) unemployment insurance decision is affirmed. The appeal in this case was not timely, and the decision of the representative remains in effect. In the alternative, claimant voluntarily quit employment without good cause attributable to the employer.



Alexis D. Rowe
Administrative Law Judge

April 26, 2022
Decision Dated and Mailed

ar/mh