

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ANN E WOODS

Claimant

GRAPETREE MEDICAL STAFFING INC

Employer

APPEAL 22A-UI-08761-AD-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20

Claimant: Appellant (1)

Iowa Code § 96.6(2) – Filing – Timely Appeal

STATEMENT OF THE CASE:

On April 7, 2022, Ann Woods (claimant/appellant) filed an appeal from the Iowa Workforce Development (“IWD”) decision dated May 28, 2021 (reference 01) that denied unemployment insurance benefits based on a finding claimant voluntarily quit work on January 2, 2020 for personal reasons. .

A telephone hearing was held on May 19, 2022. The parties were properly notified of the hearing. Appeal Nos. 22A-UI-08761, 22A-UI-08764, 22A-UI-08766, and 22A-UI-08767 are related and were heard together. Claimant participated by personally. Claimant’s attorney was not available at the time of the hearing and claimant chose to move forward with the hearing without his presence. Grapetree Medical Staffing Inc (employer/respondent) participated by Chief Human Resources Officer Jenna Peterson.

Claimant’s proposed exhibit was not admitted due to not being properly submitted to both the Appeals Bureau and the opposing party prior to the hearing. No other exhibits were offered or admitted. Official notice was taken of the administrative record.

ISSUE(S):

I. Is the appeal timely?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds:

Claimant filed an original claim for unemployment insurance benefits with an effective date of March 15, 2020. Claimant filed weekly continued claims for benefits through the benefit week ending March 13, 2021. When that claim year ended claimant filed an original claim for benefits effective March 14, 2021. Claimant filed weekly continued claims in that claim year through the benefit week ending May 1, 2021.

Decisions denying benefits based on a January 2, 2020 separation from employment were sent to claimant at the above address on May 25 and May 28, 2021. The May 25, 2021 decision

(reference 04) is for the claim year effective March 14, 2021. The May 28, 2021 decision (reference 01) is for the claim year effective March 15, 2020.

The decisions were sent to claimant's correct address and claimant did receive the decisions around that time. Both decisions state claimant is ineligible for benefits due to her voluntarily quitting work on January 2, 2020 for personal reasons and that claimant must earn insured wages in the amount of 10 times her weekly benefit amount after the separation date to become eligible for benefits. Both decisions warn claimant that if the decision is not reversed on appeal it may result in an overpayment. The decisions do not state their effect is only prospective.

The decision dated May 28, 2021 states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by June 7, 2021. However, if the due date falls on a Saturday, Sunday or legal holiday, the appeal period is extended to the next working day.

Claimant did not appeal when she received the decisions because she was already working elsewhere and no longer collecting benefits. Claimant believed the decisions only denied benefits prospectively. On April 7, 2022 claimant appealed later decisions finding she was overpaid benefits as a result of the decisions denying benefits. At that time the Appeals Bureau also set up appeals of the underlying decisions denying benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's appeal was untimely. The decision dated May 28, 2021 (reference 01) that denied unemployment insurance benefits based on a finding claimant voluntarily quit work on January 2, 2020 for personal reasons is therefore final and remains in force.

Iowa Code § 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)(a) 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 on 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)
 - (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.

There is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and the Administrative Law Judge has no authority to change the decision of representative if a timely appeal is not filed. *Franklin v. Iowa Dept. Job Service*, 277 N.W.2d 877, 881 (Iowa 1979). The ten-day period for appealing an initial determination concerning a claim for benefits has been described as jurisdictional. *Messina v. Iowa Dept. of Job Service*, 341 N.W.2d 52, 55 (Iowa 1983); *Beardslee v. Iowa Dept. Job Service*, 276 N.W.2d 373 (Iowa 1979). The only basis for changing the ten-day period would be where notice to the appealing party was constitutionally invalid. *E.g. Beardslee v. Iowa Dept. Job Service*, 276 N.W.2d 373, 377 (Iowa 1979). The question in such cases becomes whether the appellant was deprived of a reasonable opportunity to assert an appeal in a timely fashion. *Hendren v. Iowa Employment Sec. Commission*, 217 N.W.2d 255 (Iowa 1974); *Smith v. Iowa Employment Sec. Commission*, 212 N.W.2d 471 (Iowa 1973). The question of whether the Claimant has been denied a reasonable opportunity to assert an appeal is also informed by rule 871-24.35(2) which states that "the submission of any ...appeal...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 administrative law judge finds claimant received the May 28, 2021 decision in a timely manner. Claimant did not appeal when she received the decision because she was already working elsewhere and no longer collecting benefits. Claimant believed the decision only denied benefits prospectively.

The administrative law judge finds the language of the decision was sufficient to put claimant on notice of its effect. This is because the decision states that benefits are denied because of a separation from employment on January 2, 2020; that claimant must have earned sufficient wages after the separation to become eligible for benefits; and that if the decision is not reversed on appeal it may result in an overpayment. Notably, the decision does not state that it only effects claimant's eligibility for benefits prospectively.

Claimant had a reasonable opportunity to file a timely appeal but did not do so. The administrative law judge must therefore find the appeal was not timely and that he does not have jurisdiction to change the decision denying benefits, as it has become final.

DECISION:

The administrative law judge concludes the claimant's appeal was untimely. The decision dated May 28, 2021 (reference 01) that denied unemployment insurance benefits based on a finding claimant voluntarily quit work on January 2, 2020 for personal reasons is therefore final and remains in force.



Andrew B. Duffelmeyer
Administrative Law Judge

May 25, 2022
Decision Dated and Mailed

abd/abd