

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

STEVEN F KAISER
Claimant

APPEAL NO. 23A-UI-11181-PT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 10/08/23
Claimant: Appellant (2)**

Iowa Code Section 96.4(3) – Able & Available
Iowa Administrative Code rule 871-24.3(2) – Verification of Identity
Iowa Administrative Code Rules 871-24.2(1)(e) & 871-24.23(11) – Failure to Report as Directed
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On December 1, 2023, the claimant, Steven Kaiser, filed an appeal from the October 31, 2023 (reference 01) unemployment insurance decision that allowed benefits effective October 22, 2023, based upon a determination that claimant initially failed to provide verification of his identity but subsequently did so. After due notice was issued, a telephone hearing was held on December 19, 2023. The claimant participated personally. The administrative law judge took official notice of the administrative record.

ISSUES:

Whether the claimant timely provided verification of his identity.

Whether the claimant is able to and available for work.

Whether the claimant's appeal is timely.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established an original claim for benefits that was effective October 8, 2023. Claimant was unable to verify his identity through the online verification process. Therefore, on the claim confirmation page, a notice appeared stating the claimant was required to provide qualifying proof of identity to the agency by October 17, 2023, in order to prevent benefits from being delayed and the claim from being canceled.

The next day, October 9, 2023, claimant went to his IowaWORKS Center and presented to an IWD representative his Social Security card and his Iowa driver's license. The IWD representative took the two documents into his possession for purposes of scanning the materials and subsequently returned the documents to the claimant. The IWD representative did not properly document that the claimant had provided ID verification and work authorization documents.

On October 11, 2023, Iowa Workforce Development mailed a letter to the claimant in which IWD directed the claimant to provide documents to verify his identity by October 17, 2023 or risk delayed or denied benefits. Claimant received the letter a couple of days later and called Iowa Workforce Development and spoke with a representative. The claimant explained to the representative that he had provided the identity verification documents on October 9, 2023. The deputy told claimant that she would look into the issue and let him know if there was anything else claimant needed him to do to verify his identity. Claimant had no further contact with the representative.

On October 31, 2023, IWD mailed the reference 01 decision to claimant's address of record. The reference 01 decision allowed benefits effective October 22, 2023, based on the deputy's conclusion that claimant provided the requested documents on October 26, 2023. Claimant never received the decision. At the hearing, claimant testified that he has had difficulty reliably receiving mail at his address, as his mail is often delivered to his neighbor's address. Claimant submitted an appeal on December 1, 2023, after he contacted his local IowaWORKS center to find out why he did not receive unemployment insurance benefits for several weeks.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether the appeal is timely. For the reasons that follow, the administrative law judge determines claimant's appeal is timely.

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).

In this case, claimant did not receive the decision. Therefore, the appeal notice provisions were invalid. Claimant did not have a reasonable opportunity to file a timely appeal. Claimant filed his appeal promptly after learning of the decision. Claimant's appeal is considered timely.

As claimant's appeal is considered timely, the next issue is whether claimant timely provided verification of his identity.

Iowa Code section 96.4(3) provides:

An unemployed individual shall be eligible to receive benefits with respect to any week only if the department finds that:

3. The individual is able to work, is available for work, and is earnestly and actively seeking work...

Iowa Admin. Code r. 871-24.3 provides:

A claim will not become valid until the identity of the claimant has been verified by the department.

(1) Upon the filing of a claim, notification shall be provided to the claimant if the claimant's identity was not verified.

(2) If the agency is unable to verify the claimant's identity in the claim application, the claimant must provide approved documents. Approved documents must include at least one document containing a social security number. The department shall determine the approved documents required to verify identity. The list of approved documents can be found at the nearest local workforce center or online.

(3) The claimant's identity will not be considered verified until approved documents have been provided. The claim shall remain locked from issuance of benefits until the claimant has provided the approved documents to verify identity.

(4) After filing a claim application, the claimant shall not be eligible for benefits for any week until approved documents are provided to verify identity.

(5) Approved documents must be provided or postmarked by Saturday at 11:59 p.m. of the week in which the approved documentation is due, and the claim shall be unlocked for all weeks following the most recent effective date of the claim application.

(6) If required documents are provided in any subsequent weeks following the due date, the claimant shall be eligible, provided there are no other outstanding issues with the claim, as of the Sunday of the week the claimant's identity was verified.

Iowa Admin. Code r. 871-24.23(11) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

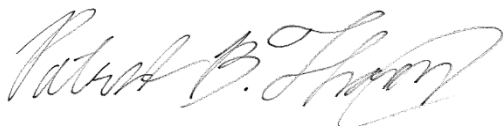
(11) Failure to report as directed to workforce development in response to the notice which was mailed to the claimant will result in the claimant being deemed not to meet the availability requirements.

In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. Iowa Administrative Code rule 871-24.2(1)(e). Failure to report as directed to workforce development in response to the notice which was mailed to the claimant will result in the claimant being deemed not to meet the availability requirements. Iowa Administrative Code rule 871-24.23(11).

The weight of the evidence in the record establishes the claimant provided timely proof of identity when he hand-delivered his Social Security card and his Iowa driver's license to Iowa Workforce Development on October 9, 2023. Iowa Workforce Development failed to properly document receipt of the ID verification documents. The claimant did not fail to report as directed. The claimant was able to work and available for work during the period beginning October 8, 2023. The claimant is eligible for benefits for the period beginning October 8, 2023, provided the claimant was otherwise eligible.

DECISION:

The claimant's appeal is accepted as timely. The October 31, 2023 (reference 01) decision is reversed. The claimant provided timely proof of identity on October 9, 2023. The claimant did not fail to report as directed. The claimant was able to work and available for work during the period beginning October 8, 2023. The claimant is eligible for benefits for the period beginning October 8, 2023, provided the claimant is otherwise eligible.



Patrick B. Thomas
Administrative Law Judge

December 28, 2023
Decision Dated and Mailed

pbt/scn

APPEAL RIGHTS. If you disagree with the 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:

**Iowa Employment Appeal Board
6200 Park Ave 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>.

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:

**Iowa Employment Appeal Board
6200 Park Ave 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 adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

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.