

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

WILLIAM T LOCK
Claimant

MANPOWER INTERNATIONAL INC
Employer

APPEAL 21A-UI-19791-LJ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 07/26/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit from Employment
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On September 7, 2021, claimant William T. Lock filed an appeal from the December 31, 2020 (reference 01) unemployment insurance decision that denied benefits based on a determination that claimant voluntarily quit his employment. The parties were properly notified of the hearing. A telephonic hearing was held at 8:00 a.m. on Wednesday, November 3, 2021. Appeal numbers 21A-UI-19791-LJ-T, 21A-UI-19792-LJ-T, and 21A-UI-19793-LJ-T were heard together and created one record. The claimant, William T. Lock, participated, along with witness Sunshine Lock. The employer, Manpower International, Inc., participated through recruiter Gayle Gonyaw. No exhibits were offered or admitted. The administrative law judge took official notice of the administrative record.

ISSUE:

Did the claimant file a timely appeal?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision related to claimant's employment with Manpower International, Inc., was mailed to claimant's last known address of record on December 31, 2020. He did not receive the decision in a timely manner because he was not living at his address of record at the time.

The first sentence of the decision states, "If this decision denies benefits and is not reversed on appeal, it may result in an overpayment which you will be required to repay." The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by January 10, 2021. The appeal was not filed until September 7, 2021, which is after the date noticed on the disqualification decision.

In December 2020, claimant was dealing with significant personal issues, including separating from his wife, looking for new employment, and "trying to get better." Though he was actively filing weekly claims for unemployment insurance benefits, he did not think to update his mailing

address when he moved out of his marital home and into a new, temporary residence. Claimant could not go to his old residence to retrieve his mail, but Sunshine Lock made efforts to pass claimant's mail onto him when she could through his sister and his mother. Claimant ultimately received the two overpayment decisions issued in late August 2021, and his timely appeal of those decisions was applied to this disqualification decision as well.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant failed to file a timely appeal.

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) 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. IDJS*, 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. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

Here, the claimant did not receive the decision in the mail because he had moved from his address of record and failed to update his address with the agency. As claimant was actively claiming benefits at the time, he had a responsibility to keep the agency updated with his contact information. Claimant's delay was not due to an error or misinformation from the Department or due to delay or other action of the United States Postal Service. No other good cause reason has been established for the delay. Claimant's appeal was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

DECISION:

The December 31, 2020 (reference 01) unemployment insurance decision is affirmed. Claimant failed to file a timely appeal. The decision of the representative remains in effect.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

November 30, 2021

Decision Dated and Mailed

lj/abd