

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

URDANE L HARRIS
Claimant

APPEAL NO. 21A-UI-22736-JTT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 02/07/21
Claimant: Appellant (1)**

Iowa Code Section 96.3(7) - Overpayment
Iowa Code Section 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant, Urdane Harris, filed an October 12, 2021 appeal from the October 1, 2021, reference 03, decision that held he was overpaid \$3,888.00 in regular benefits for eight weeks between February 7, 2021 and April 3, 2021, based on an earlier decision that disqualified him for benefits in connection with a discharge from employment with Kraft Heinz Foods Company. After due notice was issued, a hearing was held on December 7, 2021. Claimant participated. There were three appeal numbers set for a consolidated hearing: 21A-UI-22733-JTT, 21A-UI-22736-JTT and 21A-UI-22737-JTT. Exhibits A and B were received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KPYX, NMRO and the reference 02, 03 and 04 decisions.

ISSUES:

Whether the appeal was timely. Whether there is good cause to treat the appeal as timely.
Whether the claimant was overpaid \$3,888.00 in regular benefits for eight weeks between February 7, 2021 and April 3, 2021, based on an earlier decision that disqualified him for benefits in connection with a discharge from employment with Kraft Heinz Foods Company.

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 February 7, 2021. The claimant received \$3,888.00 in regular benefits for eight weeks between February 7, 2021 and April 3, 2021. The claimant received \$2,400.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits for the same eight weeks.

On April 12, 2021, Iowa Workforce Development issued the April 12, 2021, reference 02, decision that disqualified the claimant for benefits and held the employer's account would not be charged for benefits, based on the deputy's conclusion that the claimant was discharged from his employment at Kraft Heinz foods Company, L.L.C. on January 25, 2021 for violation of a known company rule. The reference 02 decision prompted the overpayment decision from

which the claimant appeals in the present matter. The reference 02 decision has been affirmed in Appeal Number 21A-UI-22733-JTT.

On October 1, 2021, Iowa Workforce Development mailed the October 1, 2021, reference 01, decision and the October 1, 2021, reference 02, decisions to the claimant's Moline, Illinois last-known address of record. The decisions were delivered to the claimant's mailbox in a timely manner. The claimant delayed collecting the correspondence from his mail box, but collected it prior to the deadline for appeal. Each decision stated the decision would become final unless an appeal from the decision was postmarked by October 11, 2021 or was received by the Appeal Section by that date. Each decision also stated that if the appeal deadline fell on a Saturday, Sunday or legal holiday, the deadline would be extended to the next working day. October 11, 2021 was Columbus Day, a federal legal holiday on which mail service was suspended. The claimant faxed his appeal on October 12, 2021. The Appeals Bureau received the appeal on October 12, 2021.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". Unless 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The ten-day deadline for appeal begins to run on the date Workforce Development mails the decision to the parties. The "decision date" found in the upper right-hand portion of the Agency representative's decision, unless otherwise corrected immediately below that entry, is presumptive evidence of the date of mailing. *Gaskins v. Unempl. Comp. Bd. of Rev.*, 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Board of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976).

An appeal submitted by mail is deemed filed 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 was 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. See Iowa Administrative Code rule 871-24.35(1)(a). See also *Messina v. IDJS*, 341 N.W.2d 52 (Iowa 1983). An appeal submitted by any other means is deemed filed on the date it is received by the Unemployment Insurance Division of Iowa Workforce Development. See Iowa Administrative Code rule 871-24.35(1)(b).

The evidence in the record establishes that more than ten calendar days elapsed between the mailing date and the date this appeal was filed. 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). One question in this case thus becomes whether the appellant was deprived of a reasonable opportunity to assert 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 evidence in the record establishes a timely appeal from the October 1, 2021, reference 03, decision. The October 11, 2021 appeal deadline fell on a legal holiday, Columbus Day. See 5 U.S. Code § 6103(a). There is good cause to treat the late appeal as a timely appeal. See Iowa Administrative Code rule 871-24.35(2). The administrative law judge has jurisdiction to enter a decision on the merits of the appeal. See *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979) and *Franklin v. IDJS*, 277 N.W.2d 877 (Iowa 1979).

Iowa Code section 96.3(7) provides, in pertinent part:

7. Recovery of overpayment of benefits.

- a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

Because the reference 02 decision disqualified the claimant for benefits and has been affirmed on appeal, the \$3,888.00 in regular benefits the claimant received for eight weeks between February 7, 2021 and April 3, 2021 is an overpayment of benefits the claimant must repay.

DECISION:

The claimant's appeal from the October 1, 2021, reference 03, decision was timely. The decision is affirmed. The claimant was overpaid \$3,888.00 in regular benefits for eight weeks between February 7, 2021 and April 3, 2021. The claimant must repay the overpaid benefits.



James E. Timberland
Administrative Law Judge

January 10, 2022
Decision Dated and Mailed

jet/mh

Note to Claimant: This decision determines you are overpaid regular unemployment insurance benefits. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed for reasons related to COVID-19, may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.