

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

IDONGESIT M ESSIEN

Claimant

APPEAL 22A-UI-06005-DZ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 12/05/21
Claimant: Appellant (1)**

Iowa Code § 96.6(2) – Timely Appeal

Iowa Code § 96.4(3) – Able to and Available for work

Iowa Admin. Code r. 871-24.2(1)e – Procedures for workers desiring to file a claim for benefits

Iowa Admin. Code r. 871-24.23 (11) – Failure to Report

Iowa Admin. Code r. 871-24.3 – Social Security Number Needed for Filing

STATEMENT OF THE CASE:

Idongesit M Essien, the claimant/appellant, filed an appeal from the January 20, 2022 (reference 02) unemployment insurance (UI) decision allowed benefits as of January 9, 2022, because Ms. Essien was disqualified from receiving benefits because she did not provide proof of her identity but later provided proof of her identity. The parties were properly notified of the hearing. A telephone hearing was held on April 18, 2022. Ms. Essien participated personally. The department did not participate in the hearing. The administrative law judge took official notice of the administrative record.

ISSUES:

Is Ms. Essien's appeal filed on time?

Is Ms. Essien able to and available for work?

Did Ms. Essien fail to provide identification verification?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Ms. Essien at the correct address on January 20, 2022. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development (IWD) Appeals Section by January 30, 2022. If the date falls on a Saturday, Sunday, or legal holiday, the appeal period is extended to the next working day. January 30, 2022 was a Sunday; therefore, the deadline was extended to Monday, January 31, 2022.

Ms. Essien received the decision in the mail on February 4, 2022. Ms. Essien was confused about what she should do. Ms. Essien is the victim of domestic violence and has been back and forth between homes as a result. Ms. Essien tried to keep track of things, but she

overlooked the decision for a couple of weeks. A couple of weeks later, Ms. Essien filed an online appeal of the decision with Johnson County, Iowa. About a week later, Johnson County sent Ms. Essien an email telling her that her appeal should not be filed with the county. About a week after that, Ms. Essien filed an appeal with IWD. Ms. Essien filed an appeal online on March 7, 2022. The appeal was received by the Appeals Bureau of Iowa Workforce Development on March 7, 2022.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Ms. Essien's appeal was not filed on time.

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).

Ms. Essien did not receive the decision before the deadline and, therefore, could not have filed an appeal on the appeal deadline. The notice provision of the decision was invalid. However, Ms. Essien filed her appeal to Johnson County, Iowa more than ten days after she received the decision, and she filed her appeal to IWD more than ten days after she received the decision. Ms. Essien's delay in filing her appeal 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 in filing her appeal. Ms. Essien's appeal was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issues in this matter.

DECISION:

Ms. Essien's appeal was not filed on time. The January 20, 2022, (reference 02) decision is AFFIRMED.



Daniel Zeno
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April 25, 2022
Decision Dated and Mailed

dz/mh