

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**DANIEL J DWYER**  
Claimant

**APPEAL NO: 10A-UI-01584-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CLOVERLEAF COLD STORAGE CO**  
Employer

**OC: 09/06/09**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant appealed a representative's October 14, 2009 decision (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant voluntarily quit his employment for reasons that do not qualify him to receive benefits. A telephone hearing was held on March 11, 2010. The claimant did not respond to the hearing notice or participate in the hearing. Donna Hirsch appeared on the employer's behalf. Based on the administrative record and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did claimant file a timely appeal or establish a legal excuse for filing a late appeal?

**FINDINGS OF FACT:**

The claimant established a claim for benefits during the week of September 6, 2009. On October 14, 2009, a representative's decision was mailed to the claimant and employer. The decision held the claimant was not qualified to receive unemployment insurance benefits as of September 6, 2009. The decision informed the parties that the decision was final unless a party filed an appeal on or before October 24, 2009.

The record does not indicate when the claimant received the October 14, 2009 decision. The claimant appealed after he received a December 8, 2009 overpayment decision. The claimant's January 29, 2010 appeal letter indicates he received the decision(s) on December 11, 2009.

**REASONING AND CONCLUSIONS OF LAW:**

Unless the claimant or other interested party, after notification or within ten calendar days after a representative's decision is mailed to the parties' last-known address, files an appeal from the decision, the decision is final. Benefits shall then be paid or denied in accordance with the representative's decision. Iowa Code section 96.6-2. Pursuant to rules 871 IAC 26.2(96)(1)

and 871 IAC 24.35(96)(1), appeals are considered filed when postmarked, if mailed. *Messina v. IDJS*, 341 N.W.2d 52 (Iowa 1983).

The Iowa Supreme Court has ruled that appeals from unemployment insurance decisions must be filed within the time limit set by statute and the administrative law judge has no authority to review a decision if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979); *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979). In this case, the claimant's appeal was filed after the October 26 deadline for appealing expired. Since October 24 was a Saturday, the deadline was extended to Monday, October 26, 2009.

The claimant did not establish a legal excuse for failing to file a timely appeal. 871 IAC 24.35(2). Since the claimant did not file a timely appeal or establish a legal excuse for filing a late appeal, the Appeals Section does not have any legal jurisdiction to make a decision on the merits of the appeal. This means the October 14, 2009 decision remains the same.

**DECISION:**

The representative's October 14, 2009 decision (reference 01) is affirmed. The claimant did not file a timely appeal or establish a legal excuse for filing a late appeal. The Appeals Section has no jurisdiction to address the merits of his appeal. This means the claimant remains disqualified from receiving unemployment insurance benefits as of September 6, 2009. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs