

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

**JAMIE D KLEINSCHRODT**  
Claimant

**IOWA WORKFORCE  
DEVELOPMENT DEPARTMENT**

**APPEAL 23A-UI-08744-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 08/27/23  
Claimant: Appellant (1)**

Iowa Code § 96.3(4) – Determination of Benefits  
Iowa Admin. Code r. 871-24.9(1)b – Monetary Determination – Timeliness  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

On September 13, 2023, claimant Jamie D. Kleinschrodt filed an appeal from the August 30, 2023 (reference 01) monetary determination. After the UI Appeals Bureau issued proper notice of the hearing, the undersigned administrative law judge held a telephonic hearing at 10:00 a.m. on Thursday, September 28, 2023. Claimant Jamie D. Kleinschrodt participated. Claimant's Exhibit A, the notice of claim form IWD mailed to his employer, was admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUE:**

Did the claimant timely appeal the monetary determination?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant opened a claim for unemployment insurance benefits with an effective date of August 27, 2023, due to a temporary layoff. He received his monetary determination, the "green sheet," and he found all of the information correct. Claimant also received a letter requesting that he provide documentation to verify his identity to IWD. After multiple trips to the Dubuque IowaWorks office, he provided the necessary documentation. Claimant asked the staff if he was "good to go," and staff assured him that he was.

During the week of September 10, claimant returned to the Dubuque IowaWorks office to inquire about why he had not received a benefit payment yet. Staff informed him that he had not filed a weekly continued claim for benefits, and it was now too late to file such a claim. After that conversation, claimant filed an appeal.

Claimant did not read the Unemployment Insurance Claimant Handbook at the time he opened his claim for benefits. He last filed a claim for unemployment insurance benefits in February 2021. Claimant successfully completed the two-step process of opening his claim and then filing a weekly continued claim for benefits at that time.

## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's appeal is untimely. Even if claimant's appeal were timely, the undersigned administrative law judge cannot grant claimant unemployment insurance benefits for the week at issue.

Iowa Code section 96.6(2) provides in pertinent part:

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...

Iowa Admin. Code r. 871-24.9(1)b provides:

Determination of benefit rights.

Monetary determinations.

b. The monetary record shall constitute a final decision unless newly discovered facts which affect the validity of the original determination or a written request for reconsideration is filed by the individual within ten days of the date of the mailing of the monetary record specifying the grounds of objection to the monetary record.

The ten calendar days for appeal begins running on the mailing date. The "decision date" found in the upper right-hand portion of the 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). This would apply to the date of the monetary record as well.

The record in this case shows 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 determinations 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). The 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. Iowa Emp't Sec. Comm'n*, 217 N.W.2d 255 (Iowa 1974); *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The record shows that the claimant had a reasonable opportunity to file a timely appeal.

The administrative law judge concludes that claimant's failure to file a timely appeal was not due to any Agency error or misinformation or delay or other action of the United States Postal Service pursuant to Iowa Admin. Code r. 871-24.35(2). Claimant's testimony indicates that he opted not to appeal the monetary record because he agreed with its contents: his wages appeared correctly, and no wages were missing; his information was listed correctly; and claimant did not dispute any other information about the determination. Claimant failed to file his appeal timely, and the administrative law judge lacks jurisdiction to change the determination at this point.

Even if the administrative law judge had jurisdiction over the monetary record, the judge lacks any jurisdiction to take the one action claimant wants taken on his behalf. Iowa Code section 96.6(1) provides:

1. *Filing.* Claims for benefits shall be made in accordance with such regulations as the department may prescribe.

Iowa Admin. Code r. 871-24.2(1)(g)(1) provides:

g. No benefit payment shall be allowed until the individual claiming benefits has completed a continued claim online or as otherwise directed by the department.

(1) The weekly continued claim shall be transmitted not earlier than 8 a.m. on the Sunday following the Saturday of the weekly reporting period and not later than close of business on the Friday following the weekly reporting period.

Iowa law does not allow for the undersigned to grant benefits for any week for which claimant did not file a weekly continued claim for benefits. The administrative law judge understands claimant's confusion by the unemployment insurance process, as it has changed over the years to coincide with developments in both technology and with agency processes. However, claimant was responsible for reading the Unemployment Insurance Claimant Handbook, which thoroughly explains the two-part process for establishing a claim and then filing weekly continued claims. Had claimant followed through on his obligation, he would have known what to do.

The administrative law judge has no jurisdiction to grant benefits for the week of August 27, 2023 through September 2, 2023.

**DECISION:**

The August 30, 2023 (reference 01) monetary record is affirmed, as claimant has filed an untimely appeal.



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Elizabeth A. Johnson  
Administrative Law Judge

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September 29, 2023  
Decision Dated and Mailed

LJ/jkb

**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:

**Employment Appeal Board  
4<sup>th</sup> Floor – Lucas Building  
Des Moines, Iowa 50319  
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> or by contacting the District Court Clerk of Court <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**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:

**Employment Appeal Board  
4th Floor – Lucas Building  
Des Moines, Iowa 50319  
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 se encuentra en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf> o comunicándose con el Tribunal de Distrito Secretario del tribunal <https://www.iowacourts.gov/iowa-courts/court-directory/>.

**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.