

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**DANIELLE JAMESON**  
Claimant

**OTTUMWA COMMUNITY SCHOOL DIST**  
Employer

**APPEAL NO. 21A-UI-13645-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 05/17/20**  
**Claimant: Appellant (1)**

Iowa Code Section 96.6(2) – Timeliness of Appeal  
Iowa Code Section 96.4(3) – Able & Available

**STATEMENT OF THE CASE:**

The claimant, Danielle Jameson, filed a late appeal from the July 16, 2020, reference 02, decision that denied benefits for the period of May 17, 2020 through June 6, 2020, based on the deputy's conclusion that the claimant was working sufficient hours during that period to be deemed employed and, therefore, did not meet the unemployment insurance "availability" requirement. After due notice was issued, a hearing was held on September 8, 2021. The claimant participated. Rebecca Appleget represented the employer and presented additional testimony through David Harper. There were six appeal numbers set for a consolidated hearing: 21A-UI-13645-JT-T, 21A-UI-13647-JT-T, 21A-UI-13648-JT-T, 21A-UI-13649-JT-T, 21A-UI-13650-JT-T and 21A-UI-13651-JT-T. Exhibits A, B and C, the online appeals, were received into evidence. The administrative law judge took official notice of the following Agency administrative records. The reference 01, 02, and 04 through 08 decisions, the record of benefits disbursed to the claimant (DBRO and KPYX), the weekly claims (KCCO), and the quarterly wage reports (WAGE-A).

**ISSUE:**

Whether the claimant's appeal from the July 16, 2020, reference 02, decision was timely.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant, Danielle Jameson, established an original claim for benefits that was effective May 17, 2020.

On July 16, 2020, Iowa Workforce Development mailed two decisions to the claimant at her Ottumwa last-known address of record. The reference 02 decision denied benefits for the period of May 17, 2020 through June 6, 2020, based on the deputy's conclusion that the claimant was working sufficient hours during that period to be deemed employed and, therefore, did not meet the unemployment insurance "availability" requirement. The reference 04 decision disqualified the claimant for unemployment insurance benefits, and held the employer's account would not be charged for benefits, based on the deputy's conclusion that the claimant voluntarily

quit effective June 3, 2020 without good cause attributable to the employer. Each decision stated that the decision would become final unless an appeal was postmarked by July 26, 2020 or was received by the Appeal Section by that date. Each decision stated that if the deadline for appeal fell on a Saturday, Sunday or legal holiday, the deadline would be extended to the next working day. July 26, 2020 was a Sunday and the next working day was Monday, July 27, 2020. Each decision included clear and concise instructions for filing an appeal online, by fax, by email, and by mail. Each decision included a toll-free number for Iowa Workforce Development customer service and for the Appeals Bureau.

The claimant received both decisions in a timely manner, prior to the deadline for appeal. The address of record provided by the claimant was her father's residence. At the time the decisions were delivered in a timely manner to that address, the claimant was residing with her mother at another residence in Ottumwa. The claimant maintained contact with her father and regularly went to her father's home to do her laundry. The claimant reviewed the decisions and found them confusing. The claimant did not contact Iowa Workforce Development to get answers to any questions she had about the decisions or to request assistance in filing an appeal. The claimant did not take any steps to file an appeal from either decision by the extended July 27, 2020 appeal deadline.

The claimant is a high school graduate. The claimant completed the regular high school curriculum. The claimant performed some college coursework at Indian Hills Community College.

The claimant performed work for the Ottumwa Community School District as an Educational Associate (paraprofessional) assigned to assist students with behavioral issues.

On June 2, 2021, Iowa Workforce Development mailed four overpayment decisions to the claimant. The reference 05 decision held the claimant was overpaid \$626.00 in regular benefits for the period of May 17, 2020 through May 30, 2020, based on the July 2020, reference 02, decision that held she did not meet the unemployment insurance availability requirement during that period. The reference 08 decision held the claimant was overpaid \$1,200.00 in Federal Pandemic Unemployment Compensation (FPUC) for those same two weeks, based on the decision that denied benefits for those two weeks. The reference 07 decision held the claimant was overpaid \$1,878.00 in regular benefits for six weeks between May 31, 2020 and July 11, 2020, based on the decision that disqualified the claimant in connection with her voluntary quit. The reference 07 decision referenced an erroneous employer. The reference 06 decision held the claimant was overpaid \$3,600.00 in FPUC benefits for a six-week period ending July 18, 2020, based on the same July 2020 decision that denied benefits for that period. The reference 05 and 07 decisions had a June 12, 2021 deadline for appeal. The reference 06 and 08 FPUC overpayment decisions had a June 13, 2021 deadline or appeal.

On June 4, 2021, the claimant submitted an online appeal from the reference 05 decision. The Appeals Bureau received the decision on June 4, 2021 and treated it as also an appeal from the reference 02 and reference 04 disqualification decisions.

On June 9, 2021, the claimant submitted online appeals from the reference 06 and reference 08 decisions. The Appeals Bureau received these appeals on June 9, 2021 and treated the reference 06 appeal as also an appeal from the reference 07 decision.

The claimant submitted each of the appeals without assistance from another person.

## 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).

No submission shall be considered timely if the delay in filing was unreasonable, as determined by the division after considering the circumstances in the case. See Iowa Administrative Code rule 871-24.35(2)(c).

The claimant's appeal from the July 16, 2020, reference 02, decision was untimely. Though the claimant's testimony on the topic shifted during the hearing, the weight of the evidence establishes that the claimant received the decision in a timely manner. The claimant had the ability and a reasonable opportunity to file an appeal by the July 27, 2020 extended appeal deadline. The claimant elected not to take steps to file an appeal by the appeal deadline. The claimant unreasonably delayed action on the matter until June 4, 2021, when she filed her first online appeal in response to an overpayment decision. The late filing of the appeal was not attributable to Iowa Workforce Development or to the United States Postal Service. There is not good cause to treat the late appeal as a timely appeal. See Iowa Administrative Code rule 871-24.35(2). Because the appeal was untimely, the administrative law judge lacks jurisdiction to change the July 16, 2020, reference 02, decision. See *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979) and *Franklin v. IDJS*, 277 N.W.2d 877 (Iowa 1979).

#### **DECISION:**

The claimant appeal from the July 16, 2020, reference 02, decision was untimely. The decision that denied benefits for the period of May 17, 2020 through June 6, 2020, based on the deputy's conclusion that the claimant was working sufficient hours during that period to be deemed employed and, therefore, did not meet the unemployment insurance "availability" requirement, remains in effect.



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James E. Timberland  
Administrative Law Judge

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November 19, 2021  
Decision Dated and Mailed

jet/kmj

**Note to Claimant:** This decision determines you are not eligible for 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>.