

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRIS L KEISER
Claimant

APPEAL NO. 13A-UI-07465-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

OC: 02/24/13
Claimant: Appellant (1)

871 IAC 24.2(1)h – Backdating
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 11, 2013, reference 01, that denied his request to backdate his claim. A telephone hearing was held on August 2, 2013. The claimant participated in the hearing.

ISSUE:

Was the appeal in this case filed timely?

FINDINGS OF FACT:

An unemployment insurance decision was mailed to the claimant's last known address of record on June 11, 2013. The decision denied his request to backdate his claim and stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by June 21, 2013.

The claimant was out of town when the decision was sent out and his wife left it in a pile of mail that the claimant did not go through until around June 24. He filed a written appeal on June 24, 2014, which is after the time for appealing had expired.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant filed a timely appeal.

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last known address. Iowa Code § 96.6-2.

The next question is whether the claimant had a reasonable opportunity to file 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). He filed his appeal late because his wife did not alert him about the

decision and he did not see it in the pile of mail until the deadline was over. The claimant had a reasonable opportunity to file a timely appeal.

The 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, which under 871 IAC 24.35(2) would excuse the delay in filing an appeal. Since the appeal was not filed timely, there is no jurisdiction to make a decision on the merits of the appeal.

DECISION:

The unemployment insurance decision dated June 11, 2013, reference 01, is affirmed. The appeal in this case was not timely, and the unemployment insurance decision denying his request to backdate his claim remains in effect.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css