

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**ALAE CHENNOUFI**  
Claimant

**APPEAL NO: 11A-UI-16092-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SCHENKER LOGISTICS INC**  
Employer

**OC: 11/06/11  
Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quit  
Iowa Code § 96.6(2) – Timely Appeal

**PROCEDURAL STATEMENT OF THE CASE:**

The claimant appealed a representative's December 1, 2011 determination (reference 01) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant did not respond to the hearing notice or participate in the hearing. Nicki Brick appeared on the employer's behalf. Based on administrative record, and the law, the administrative law judge concludes the claimant did not file a timely appeal so the determination disqualifying him from receiving benefits cannot be changed.

**ISSUE:**

Did the 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 November 6, 2011. On December 1, 2011, a representative's determination was mailed to the claimant and employer. The determination disqualified the claimant from receiving unemployment insurance benefits as of November 6, 2011. The determination also informed the parties an appeal had to be filed or postmarked on or before December 11, 2011. The claimant filed his appeal by mailing his appeal letter on December 16, 2011.

**REASONING AND CONCLUSIONS OF LAW:**

Unless the claimant or other interested party, after notification or within ten calendar days after a representative's determination is mailed to the parties' last-known address, files an appeal from the determination; it is final. Benefits shall then be paid or denied in accordance with the representative's determination. Iowa Code § 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 determinations must be filed within the time limit set by statute and the administrative law judge has no authority to review a determination 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 December 12 deadline for appealing expired. Since December 11 was a Sunday, the deadline to appeal was automatically extended to the next business day, or Monday, December 12, 2011. The claimant filed a late appeal.

The claimant did not establish that his failure to file a timely appeal was 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 claimant did not establish a legal excuse for filing a timely appeal, the Appeals Section does not have jurisdiction to make a decision on the merits of the appeal. This means the December 1, 2011 determination cannot be changed.

**DECISION:**

The representative's December 1, 2011 determination (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 does not have jurisdiction to address the merits of his appeal. This means as of November 6, 2011, the claimant remains disqualified from receiving unemployment insurance benefits. 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/css