

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

---

**JOSHUA M BRANDT**  
Claimant

**APPEAL NO. 20A-UI-00419-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**A1 CABINET & GRANITE LLC**  
Employer

**OC: 11/17/19**  
**Claimant: Appellant (1)**

---

Iowa Code Section 95.5(1) – Voluntary Quit  
Iowa Code Section 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

Joshua Brandt filed a late appeal from the January 3, 2020, reference 04, decision that disqualified him for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion that Mr. Brandt voluntarily quit on November 21, 2019 without good cause attributable to the employer. After due notice was issued, a hearing was held on February 3, 2020. Mr. Brandt participated. Sammy Lin represented the employer. Mandarin Chinese-English Interpreter Hong Zhang of CTS Language Link assisted with the hearing. Exhibit A and Department Exhibit D-1 were received into evidence.

**ISSUE:**

Whether the appeal was timely. Whether there is good cause to treat the appeal as timely.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: On January 3, 2020, Iowa Workforce Development mailed a copy of the January 3, 2020, reference 04, decision to claimant Joshua Brandt's last known address of record. The decision disqualified Mr. Brandt for benefits and held the employer's account would not be charged for benefits, based on the deputy's conclusion that Mr. Brandt voluntarily quit on November 21, 2019 without good cause attributable to the employer. The decision stated that an appeal from the decision must be postmarked by January 13, 2020 or be received by the Appeals Bureau by that day. Mr. Brandt received the decision on or before January 7, 2020. Mr. Brandt did not take steps to file an appeal by the January 13, 2020 appeal deadline. On January 14, 2020, Mr. Brandt filed an online appeal. The Appeals Bureau received the appeal on January 14, 2020.

**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). 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. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973).

The evidence in the record establishes an untimely appeal. Mr. Brandt had a reasonable opportunity to file an appeal by the January 13, 2020 appeal deadline, but elected to defer filing the appeal until the day after the appeal deadline. Because the late filing of the appeal was attributable to Mr. Brandt's delay, and not attributable to Iowa Workforce Development or 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 disturb the January 3, 2020, reference 04, 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 January 3, 2020, reference 04, decision is affirmed. The claimant's appeal was untimely. The decision that disqualified the claimant for benefits and that held the employer's account would not be charged for benefits, based on the deputy's conclusion that the claimant voluntarily quit on November 21, 2019 without good cause attributable to the employer, remains in effect.

---

James E. Timberland  
Administrative Law Judge

---

Decision Dated and Mailed

jet/scn