

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**WILLIAM P FORRESTER**  
Claimant

**APPEAL NO. 10A-UI-00326-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**DES STAFFING SERVICES INC**  
Employer

**Original Claim: 09/13/09  
Claimant: Appellant (1)**

Section 96.5-1-j – Voluntary Quit Temporary Employment  
Section 96.6-2 – Timeliness of Appeal  
871 IAC 26.8(5) – Decision on the Record

**STATEMENT OF THE CASE:**

The claimant appealed a representative's October 20, 2009 decision (reference 02) that disqualified him from receiving benefits and held the employer's account exempt from charge because the claimant voluntarily quit working for the employer for reasons that do not qualify him to receive benefits. A telephone hearing was scheduled for February 16, 2010. The claimant did not respond to the hearing notice or participate in the hearing. Stacy Navarro appeared on the employer's behalf. Based on the administrative record and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**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 September 13, 2009. On October 20, 2009, a representative's decision was mailed to the claimant and employer. The decision disqualified the claimant from receiving benefits as of July 19, 2009. The decision informed the parties that the decision was final unless an appeal was filed or postmarked on or before October 30, 2009.

The claimant did not appeal the October 20, 2009 until he received a December 30 decision that held him overpaid some benefits. The claimant filed his appeal on January 6, 2010.

**REASONING AND CONCLUSIONS OF LAW:**

Unless the claimant or other interested party, after notification or within ten calendar days after a representative's decision is mailed to the parties' last-known address, files an appeal from the decision, the decision is final. Benefits shall then be paid or denied in accordance with the representative's decision. 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 decisions must be filed within the time limit set by statute and the administrative law judge has no authority to review a decision 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 October 30, 2009 deadline for appealing expired.

The record does not establish that the claimant had a legal excuse for filing a late appeal. 871 IAC 24.35(2). Therefore, the Appeals Section has no legal jurisdiction to make a decision on the merits of the appeal. This means the claimant remains disqualified from receiving benefits as of July 19, 2009.

**DECISION:**

The representative's October 20, 2009 decision (reference 02) 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 legal jurisdiction to address the merits of his appeal. This means the claimant is disqualified from receiving unemployment insurance benefits as of July 19, 2009. 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.

---

Debra L. Wise  
Administrative Law Judge

---

Decision Dated and Mailed

dlw/kjw