

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

CAROL R HILLS
Claimant

MERCY HEALTH SERVICES IOWA CORP
Employer

APPEAL 21A-UI-03408-DZ-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: Appellant (1)

Iowa Code § 96.6(2) – Timely Appeal
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5(2)a – Discharge for Misconduct

STATEMENT OF THE CASE:

Carol R Hills, the claimant/appellant filed an appeal from the January 4, 2021, (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on March 25, 2021. Ms. Hills participated and testified. The employer participated through Beckie Wahlberg, labor relations senior partner, Erin Boomstra, benefits coordinator and Frank Shoemaker, hearing representative.

ISSUES:

Is Ms. Hills' appeal filed on time?
Did Ms. Hills voluntarily quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The Unemployment Insurance Decision was mailed to Ms. Hills at the correct address on January 4, 2021. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by January 14, 2021. Ms. Hills moved on December 17, 2020 and had mail forwarded to her father's address. Ms. Hills' father's girlfriend would check her father's mail and periodically give Ms. Hills mail sent to Ms. Hills. Ms. Hills does not recall when she received the January 4, 2021 decision. On January 20, 2021, Ms. Hills contacted Iowa Workforce Development because she wanted to get benefits from her employment with Midlands Clinic. Iowa Workforce Development had not issued any decision related to Ms. Hills' employment with Midland Clinic. The representative told Ms. Hill that she could appeal the decisions that Iowa Workforce Development had issued. Ms. Taylor appealed the decision via phone/fax on January 20, 2021. The appeal was received by Iowa Workforce Development on January 20, 2021.

Ms. Hills appealed the January 4 2021, (reference 02) decision. Since Iowa Workforce Development had not issued any decision dated December 31, 2020 related to Ms. Hills, Ms. Hills' appeal was entered as an appeal of the January 4, 2021, (reference 02) decision. Ms.

Hills testified that she did not intend to or want to appeal the Iowa Workforce Development decision related to this employer. Mr. Hills declined to withdraw her appeal in this matter.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes that Ms. Hills' appeal was not filed on time.

Iowa Code § 96.6(2) provides, in pertinent part: “[u]nless 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.”

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service 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 is 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.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

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).

Ms. Hills does not know when she received the decision in the mail since she did not get her mail daily. Ms. Hills' delay in filing her appeal was not due to an error or misinformation from the Department or due to delay or other action of the United States Postal Service. No other good cause reason has been established for the delay. Ms. Hills' appeal was not filed on time and the administrative law judge lacks jurisdiction (authority) to decide the other issue in this matter.

DECISION:

Ms. Hill's appeal was not filed on time. The January 4, 2021, (reference 02) unemployment insurance decision is affirmed.



Daniel Zeno
Administrative Law Judge
Unemployment Insurance Appeals Bureau
Iowa Workforce Development
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
Fax 515-478-3528

March 26, 2021

Decision Dated and Mailed

dz/kmj