

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

---

**JILANN SEVERSON**  
Claimant

**APPEAL NO. 21A-EUCU-00064-JT-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**IOWA WORKFORCE DEVELOPMENT  
DEPARTMENT**

**OC: 03/15/20**  
**Claimant: Appellant (1)**

---

Iowa Code Section 96.6(2) – Timeliness of Appeal  
Iowa Code Section 96.4(3) – Able & Available, Work Search Warning

**STATEMENT OF THE CASE:**

The claimant, Jilann Severson, filed an April 17, 2021 appeal that the Appeals Bureau treated as a late appeal from the November 3, 2020 (reference 01) decision that reminded the claimant she was required to make a minimum of two employer job contacts each claim week and that warned the claimant she could be disqualified for benefits for future claim weeks in which she made few than two employer contacts. The decision referred to the claimant’s report of zero job contacts for the week that ended October 31, 2020. After due notice was issued, a hearing was held on June 5, 2021. Claimant participated. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: November 3, 2020 (reference 01), KCCO, DBRO, and the October 30, 2020 notice that told the claimant her work search requirements had changed and she was required to make at least two job contacts each claim week effective October 30, 2020.

**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 November 3, 2020, Iowa Workforce Development mailed the November 3, 2020 (reference 01) decision to the claimant’s Des Moines last-known address of record. The reference 01 decision reminded the claimant she was required to make a minimum of two employer job contacts each claim week and that warned the claimant she could be disqualified for benefits for future claim weeks in which she made few than two employer contacts. The decision referred to the claimant’s report of zero job contacts for the week that ended October 31, 2020. The reference 01 decision stated that the decision would be final unless an appeal was postmarked by November 13, 2020 or was received by the Appeal Section by that date. The claimant received the reference 01 decision in a timely manner, but did not take steps to appeal from the decision by the November 13, 2020 deadline or at any point prior to April 17, 2021. On April 17, 2021, the claimant filed an online appeal that the Appeals Bureau treated as a late appeal from the November 3, 2020 (reference 01) decision.

## 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).

No submission shall be considered timely if the delay in filing was unreasonable, as determined by the division after considering the circumstances in the case. See Iowa Administrative Code rule 871-24.35(2)(c).

The evidence establishes a untimely appeal from the November 3, 2020 (reference 01) decision/warning regarding the work search requirement. The claimant received the decision in a timely manner, had a reasonable opportunity to file an appeal by the November 13, 2020 deadline, but did not file an appeal until April 17, 2021. Because the late filing was not attributable to IWD or to 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 November 3, 2020 (reference 01) 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 claimant's appeal was untimely. The November 3, 2020 (reference 01) work search warning decision remains in effect.



---

James E. Timberland  
Administrative Law Judge

---

June 17, 2021  
Decision Dated and Mailed

jet/kmj