

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

**JASMINE N MAYES-BROWNING**  
Claimant

**APPEAL NO. 21A-UI-08472-JTT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**THE UNIVERSITY OF IOWA**  
Employer

**OC: 05/17/20**  
**Claimant: Appellant (1)**

Iowa Code Section 96.6(2) – Timeliness of Appeal  
Iowa Code Section 96.4(5) – Between Academic Terms

**STATEMENT OF THE CASE:**

The claimant, Jasmine Mayes-Browning, filed a late appeal from the March 9, 2021, reference 01, decision that denied benefits effective May 17, 2020, based on the deputy's conclusion that the claimant was an employee of an educational institution, that the claimant's unemployment occurred between academic terms, and that the claimant had reasonable assurance of employment for the next academic term. After due notice was issued, a hearing was held on June 8, 2021. The claimant participated. Jessica Wade represented the employer. Exhibit A was received into evidence. The administrative law judge took official notice of the following Agency administrative records: DBRO, KCCO, WAGE-A, KFFV, the Request for Additional information mailed on March 9, 2021, and the reference 01, decision.

**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: The claimant established an original claim for benefits that was effective May 17, 2020. At that time, the claimant provided Iowa Workforce Development with a Coralville address as her mailing address. The claimant was a graduate student at the University of Iowa at the time she filed her claim. Until the appeal hearing on June 8, 2021, the claimant did not take any steps to update her address of record with Iowa Workforce Development.

Toward the end of January 2021, the claimant temporarily discontinued residing at her Coralville address and went to Illinois to stay with her parents. The claimant had not arranged with the United States Postal Service to have her mail forwarded to the Illinois address. The claimant had not made arrangements to have any one monitor her incoming mail at the Coralville address.

On January 27, 2021, IWD had mailed notice of a February 9, 2021 fact-finding interview to the claimant's Coralville address of record.

On February 9, 2021, an Iowa Workforce Development deputy telephoned the claimant to interview her in connection with a scheduled fact-finding interview. The claimant declined to participate because she thought the call was a scam.

On February 9, 2021, the deputy mailed a Request for Additional Information to the claimant's address of record. The request provided a February 15, 2021 deadline for the claimant's response.

On March 9, 2021, Iowa Workforce Development mailed the March 9, 2021, reference 01, decision to the claimant's Coralville address of record. The decision arrived at the address of record in a timely manner. The decision denied benefits effective May 17, 2020, based on the deputy's conclusion that the claimant was an employee of an educational institution, that the claimant's unemployment occurred between academic terms, and that the claimant had reasonable assurance of employment for the next academic term. The reference 01 decision stated that it would become final unless an appeal was postmarked by March 19, 2021 or was received by the Appeals Bureau by that date. The claimant did not file an appeal by the March 19, 2021 deadline.

The reference 01 decision remained in the claimant's Coralville mailbox until March 24, 2021, when the claimant returned to the Coralville address and collected her accumulated mail from the mailbox. Though the decision included clear and concise instructions for filing an appeal, the claimant contacted IWD customer service for guidance. An agency advised the claimant to file an online appeal. On March 26, 2021, the claimant completed and transmitted an online appeal. The Appeals Bureau received the appeal on March 26, 2021.

## **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). One 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. The decision arrived at the claimant's address of record in a timely manner and the claimant had a reasonable opportunity to file an appeal by the March 19, 2021 appeal deadline. However, the claimant was absent from her residence for about two months without taking reasonable and appropriate steps to deal with her incoming mail, including the March 9, 2021, reference 01, decision. The appeal was filed late on March 26, 2020. The late filing of the appeal was attributable to the claimant. The late filing was not attributable to IWD error or misinformation or to delay or other action of 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 March 9, 2021, reference 01 decision became final and the administrative law judge lacks jurisdiction to disturb it. 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 from the March 9, 2021, reference 01, decision was untimely. The decision that denied benefits effective May 17, 2020, based on the deputy's conclusion that the claimant was an employee of an educational institution, that the claimant's unemployment occurred between academic terms, and that the claimant had reasonable assurance of employment for the next academic term, remains in effect.

In the event this decision regarding timeliness of appeal is reversed upon further appeal, there is sufficient evidence in the record for entry of a decision on the merits without need for further hearing.



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James E. Timberland  
Administrative Law Judge

June 21, 2021  
Decision Dated and Mailed

jet/scn

**NOTE TO CLAIMANT:** This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits, but who are unemployed or continue to be unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final or if you are not eligible for PUA, you may have an overpayment of benefits that you must repay.

**ATTENTION:** On May 11, 2021, Governor Reynolds announced that Iowa will end its participation in federal pandemic-related unemployment benefit programs effective June 12, 2021. The last payable week for PUA in Iowa will be the week ending June 12, 2021. Additional information can be found in the press release at <https://www.iowaworkforcedevelopment.gov/iowa-end-participation-federal-unemployment-benefit-programs-citing-strong-labor-market-and>.