

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**RACHEL A STAGG**  
Claimant

**SLB OF IOWA LC**  
Employer

**APPEAL 22A-UI-00671-DH-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 06/14/20**  
**Claimant: Appellant (4)**

---

Iowa Code § 96.6(2) - Timeliness of Appeal  
Iowa Code § 96.5(1) - Voluntary Quitting  
Iowa Code § 96.5(2)a - Discharge for Misconduct  
Iowa Admin. Code r. 871-24.1(113)a - Definitions - Separations - Layoffs

**STATEMENT OF THE CASE:**

Claimant/appellant, Rachel A. Stagg, filed an appeal from the November 15, 2021, (reference 02) unemployment insurance decision that denied benefits, finding claimant voluntarily quit on June 19, 2020. After proper notice, a telephone hearing was conducted on January 28, 2022. Claimant participated personally. Employer, SLB of Iowa, LC, participated through Karen Beard, HR Manager. Judicial notice was taken of the administrative records.

**ISSUES:**

Is the appeal timely?  
Was the separation a layoff, discharge for misconduct or voluntarily quit without good cause?

**FINDINGS OF FACT:**

Having heard the testimony and considered the evidence and record, the undersigned finds:

An initial decision (reference 02) was mailed to the claimant/appellant's address of record on November 15, 2021. The decision contained a warning that an appeal must be filed by November 25, 2021. That date is a holiday, thanksgiving, and therefore, the deadline is extended to the next working day, November 29, 2021. The decision also directed the appellant to call the customer service line for assistance. Claimant never received the decision. Claimant received a debit card, which US Bank told her it was unemployment benefits, coupled with a call from an Iowa Workforce Development representative. On November 30, 2021, claimant contacted IWD to see what they wanted and figure out what the card was and learned of her denial letter. IWD assisted her with her appeal, which she filed the same date. The appeal was delayed because claimant did not receive the decision.

Claimant was a parttime cashier with employer, starting June 24, 2019. In October of 2020, she became a fulltime catering coordinator. Her last day worked was March 23, 2021. Claimant was

laid off work by her employer on March 23, 2020 due to the COVID-19 pandemic. Claimant was recalled to work on June 19, 2020 and reported back to work.

### **REASONING AND CONCLUSIONS OF LAW:**

The first issue to address is whether the appeal is timely. For the reasons that follow, the administrative law judge concludes the appeal was timely.

Iowa law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last known address. See Iowa Code § 96.6(2).

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

Date of submission and extension of time for payments and notices.

(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.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

b. The division shall designate personnel who are to decide whether an extension of time shall be granted.

c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the department after considering the circumstances in the case.

d. If submission is not considered timely, although the interested party contends that the delay was due to division error or misinformation or delay or other action of the United States postal service, the division shall issue an appealable decision to the interested party.

The ten calendar days for appeal begins running on the mailing date. The "decision date" found in the upper right-hand portion of the 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).

The record in this case shows 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. Iowa Dep't of Job Serv.*, 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. Iowa Dep't of Job Serv.*, 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. Iowa Emp't Sec. Comm'n*, 217 N.W.2d 255 (Iowa 1974); *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973).

Claimant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). Claimant timely appealed the decision on November 30, 2021, when she first learned of the decision, through

contact with IWD as addressed in the fact-finding section. Therefore, the appeal shall be accepted as timely.

The final issue to address is whether the separation was a layoff, a discharge for misconduct or a voluntarily quit without good cause attributable to the employer? For the reasons that follow, the administrative law judge concludes claimant was laid off from work.

Iowa Admin. Code r. 871-24.1(113)a provides:


Separations. All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

Due to COVID-19, employer laid off employees, claimant being one of them. Claimant was laid off effective March 23, 2020. Employer was able to recall claimant to work effective June 19, 2020, and claimant reported to work. There was no quit.

**DECISION:**

The November 15, 2021, (reference 02) unemployment insurance decision that denied benefits is **MODIFIED** in favor of claimant/appellant. Claimant did not quit, but was laid off from work from March 23, 2020, recalled to work June 19, 2020, and is granted benefits for this timeframe so long as she is otherwise qualified.



Darrin T. Hamilton  
Administrative Law Judge

March 29, 2022  
Decision Dated and Mailed

dh/scn