

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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**SCOTT SHUTZ**

Claimant

**SCHNEIDER NATIONAL CARRIERS INC**

Employer

**APPEAL 20A-UI-13863-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/26/20**

**Claimant: Appellant (1)**

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Iowa Code § 96.6(2) – Timeliness of Appeal

Iowa Code § 96.5(1) – Voluntary Quitting

**STATEMENT OF THE CASE:**

On November 1, 2020, the claimant filed an appeal from the October 13, 2020, reference 02, unemployment insurance decision that concluded he was not eligible for unemployment insurance benefits. Notices of hearing were mailed to the parties' last known addresses of record for a telephone hearing scheduled for December 31, 2020, at 11:00 a.m. The claimant participated. The employer participated through Hearing Representative John Soete and Driver Team Leader Brooke Roth.

**ISSUE:**

1. Whether the claimant filed a timely appeal? Whether there is good cause to treat the appeal as timely?
2. Whether the claimant voluntarily quit without good cause attributable to the employer?

**FINDINGS OF FACT:**

On October 13, 2020, a representative issued a decision that held that the claimant was ineligible for unemployment insurance benefits. The decision also states that the decision would become final unless an appeal was postmarked by October 23 2020, or received by the Appeals Section on that date. The claimant's appeal was sent via Iowa Workforce Development's Online Appeal form on November 1, 2020.

In the hearing, the claimant said he could not be sure when he received the October 13, 2020, reference 02, unemployment insurance decision, but said it likely was received a few days after its mailing date. On his appeal, the claimant wrote the approximate date he received the letter was on October 13, 2020. The claimant explained he was delayed in filing his appeal because he was attempting to appeal the decision.

**REASONING AND CONCLUSIONS OF LAW:**

The preliminary issue in this case is whether the employer timely appealed the representative's decision. Iowa Code section 96.6-2 provides that unless the affected party (here, the claimant)

files an appeal from the decision within ten calendar days, the decision is final and benefits shall be paid or denied as set out by the decision.

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).

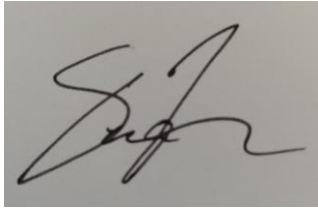
Pursuant to rules 871 IAC 26.2(96)(1) and 871 IAC 24.35(96)(1), appeals are considered filed when postmarked, if mailed. *Messina v. IDJS*, 341 N.W.2d 52 (Iowa 1983).

The 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 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). The record shows that the appellant did have a reasonable opportunity to file an appeal postmarked as timely.

The claimant missed the deadline of appeal by several weeks. The claimant did not provide any evidence that his appeal was delayed due to an error attributable to Iowa Workforce Development or the United States Postal Service. The claimant confirmed that he received the October 13, 2020, reference 02, unemployment insurance decision around the time it was dated. While the claimant's attempt to correct the decision without appealing may be laudable, it does not toll the appeal period. The administrative law judge concludes that claimant's failure to have the appeal timely postmarked within the time prescribed by the Iowa Employment Security Law was not due to error, misinformation, delay, or other action of the United States Postal Service pursuant to 871 IAC 24.35(2). Since the claimant's appeal is not timely, the administrative law judge has no jurisdiction to rule on the merits of the claim for unemployment insurance benefits.

**DECISION:**

The October 13, 2020, reference 02, unemployment insurance decision denying benefits remains in effect as the appellant is in default and the appeal is dismissed.



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Sean M. Nelson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 725-9067

January 20, 2021  
Decision Dated and Mailed

smn/mh

*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 currently 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.