

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**HEI RAL**  
Claimant

**QUALITY MANUFACTURING  
CORPORATION**  
Employer

**APPEAL 21A-UI-02178-AD-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/19/20**  
**Claimant: Respondent (1)**

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Iowa Admin. Code r. 871-24.26(4) – Voluntary Quitting  
Iowa Code § 96.6(2) – Filing – Timely Appeal  
Iowa Admin. Code r. 871-24.35 – Filing

**STATEMENT OF THE CASE:**

On January 6, 2021, Quality Manufacturing Corporation (employer/appellant) filed an appeal from the December 23, 2020 (reference 02) unemployment insurance decision that allowed benefits based on a finding claimant voluntarily quit work on September 23, 2020 for good cause attributable to employer.

A telephone hearing was held on March 2, 2021. The parties were properly notified of the hearing. Hei Ral (claimant/appellant) participated personally and with the assistance of a Hakha Chin language interpreter. Employer participated by HR Specialist Sara Dean. HR Manager Nate Cloe participated as a witness for employer.

Employer's exhibits 1-4 were admitted. Official notice was taken of the administrative record.

**ISSUE(S):**

- I. Is the appeal timely?

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds:

The Unemployment Insurance Decision was mailed to employer at the above address on December 23, 2020. That was employer's correct address at that time. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by January 2, 2021. However, if the due date falls on a Saturday, Sunday or legal holiday, the appeal period is extended to the next working day. January 2, 2021 was a Saturday, so the deadline to appeal was extended to January 4, 2021. Employer appealed the decision via email on January 6, 2021.

Employer received the decision on December 27, 2020. However, due to several employees being out of the office during the holidays, the decision was not sent to the attention of Dean until January 6, 2021. She appealed at that time.

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

For the reasons that follow, the administrative law judge concludes the employer's appeal was untimely. The December 23, 2020 (reference 02) unemployment insurance decision that allowed benefits is therefore a final decision, and the administrative law judge has no jurisdiction to change it. That decision remains in force.

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)(a) 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 on 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)
  - (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.

There is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and the Administrative Law Judge has no authority to change the decision of representative if a timely appeal is not filed. *Franklin v. Iowa Dept. Job Service*, 277 N.W.2d 877, 881 (Iowa 1979). The ten-day period for appealing an initial determination concerning a claim for benefits has been described as jurisdictional. *Messina v. Iowa Dept. of Job Service*, 341 N.W.2d 52, 55 (Iowa 1983); *Beardslee v. Iowa Dept. Job Service*, 276 N.W.2d 373 (Iowa 1979). The only basis for changing the ten-day period would be where notice to the appealing party was constitutionally invalid. *E.g. Beardslee v. Iowa Dept. Job Service*, 276 N.W.2d 373, 377 (Iowa 1979). The question in such cases becomes whether the appellant was deprived of a reasonable opportunity to assert an appeal in a timely fashion. *Hendren v. Iowa Employment Sec. Commission*, 217 N.W.2d 255 (Iowa 1974); *Smith v. Iowa Employment Sec. Commission*, 212 N.W.2d 471 (Iowa 1973). The question of whether the Claimant has been denied a reasonable opportunity to assert an appeal is also informed by rule 871-24.35(2) which states that “the submission of any ...appeal...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.”

While the administrative law judge understands Dean was not aware of the decision until January 6, 2021, at which time she appealed, the question is not whether the specific person responsible for appealing had a reasonable opportunity to assert an appeal. The issue is whether employer had a reasonable opportunity to appeal. Employer had the decision in its possession for over a week before the appeal deadline. This is a reasonable amount of time in which to assert an appeal. The administrative law judge finds the delay in appealing was due to employer having insufficient procedures in place to ensure time-sensitive documents like the December 23, 2020 decision were processed in a timely manner. This is not a good cause reason for delay. The appeal is therefore untimely, the decision is final, and the administrative law judge does not have jurisdiction to address the underlying issues.

**DECISION:**

The administrative law judge concludes the employer’s appeal was untimely. The December 23, 2020 (reference 02) unemployment insurance decision that allowed benefits is therefore a final decision, and the administrative law judge has no jurisdiction to change it. That decision remains in force.



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Andrew B. Duffelmeyer  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515) 478-3528

March 08, 2021  
Decision Dated and Mailed

abd/ol