

**IN THE IOWA ADMINISTRATIVE HEARINGS DIVISION
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

COLTON R SLAUGHTER
Claimant

APPEAL NO. 24A-UI-00453-JT-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE DEVELOPMENT
DEPARTMENT**

**OC: 11/27/22
Claimant: Appellant (1)**

Iowa Code Section 96.6(2) – Timeliness of Appeal
Iowa Code Section 96.3(7) - Overpayment

STATEMENT OF THE CASE:

On January 10, 2024, Colton Slaughter (claimant) filed a late appeal from the June 16, 2023 (reference 19) decision that held he was overpaid \$497.00 in benefits for the week ending February 18, 2023, due to a May 16, 2023 decision that denied benefits for that week. After due notice was issued, a hearing was held on January 30, 2024. Mr. Slaughter participated. There were 15 appeal numbers set for a consolidated hearing: 24AUI00444JTT, 24AUI00445JTT, 24AUI00446JTT, 24AUI00447JTT, 24AUI00448JTT, 24AUI00449JTT, 24AUI00450JTT, 24AUI00451JTT, 24AUI00452JTT, 24AUI00453JTT, 24AUI00454JTT, 24AUI00455JTT, 24AUI00457JTT, 24AUI00458JTT and 24AUI00460JTT. Exhibits A, B and C were received into evidence. The administrative law judge took official notice of the following agency administrative records: the reference 09, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24 decisions, DBIN (o.c. 11/27/22), KCCO, NMRO, KLOG, and DBRO (o.c. 12/10/23).

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:

Colton Slaughter (claimant) established an original claim for benefits that was effective November 27, 2022. At the time Mr. Slaughter established his claim for benefits, he was residing at a house in Goodell, Iowa. Mr. Slaughter gave that address as the address to which IWD should mail correspondence concerning the claim for benefits.

In February 2023, Mr. Slaughter moved from the Goodell residence and commenced residing with a friend in Klemme, Iowa. When Mr. Slaughter moved from Goodall to Klemme he did not update his mailing address with Iowa Workforce Development. Nor did Mr. Slaughter contact the United States Postal Service (USPS) to have his mail forwarded. Mr. Slaughter resided with his friend for two months.

In April 2023, Mr. Slaughter moved from the Klemme resident to his father's home in Belmond, Iowa. When Mr. Slaughter moved from Klemme to Belmond, he did not update his mailing address with Iowa Workforce Development. Nor did he contact the United States Postal Service (USPS) to have his mail forwarded.

Since April 2023, Mr. Slaughter has continued to reside at the Belmond address.

Mr. Slaughter's address on record with IWD continued to be the Goodell address until the week of December 10, 2023, when Mr. Slaughter completed a new application for benefits to establish a new benefit year. Mr. Slaughter provided the Belmond address as his mailing address when he made the new application for benefits.

Between May 4, 2023 and June 16, 2023, Iowa Workforce Development mailed 16 decisions to Mr. Slaughter. All 16 decisions were mailed to the Goodell address of record. The weight of the evidence indicates that the USPS delivered each decision to the Goodell address in timely manner. There is no evidence to indicate otherwise. Each decision included clear and concise instructions for filing an appeal online, by mail, by fax or by email.

On May 4, 2023, Iowa Workforce Development mailed the May 4, 2023 (reference 09) decision to Mr. Slaughter at the Goodell last-known address of record. The reference 09 decision denied benefits for the week ending March 25, 2023, based on the deputy's conclusion the claimant did not meet the reemployment activities requirement during that week and earlier been warned. The reference 09 decision stated the decision would become final unless an appeal was postmarked by May 14, 2023, or was received by the Appeals Section by that date. The decision stated that if the deadline for appeal fell on a Saturday, Sunday or legal holiday, the deadline would be extended to the next working day. May 14, 2023 was a Sunday and the next working day was Monday, May 15, 2023. Ms. Slaughter did not file an appeal from the decision by the May 15, 2023 extended appeal deadline.

On May 16, 2023, Iowa Workforce Development mailed seven decisions (reference 11, 13, 14, 15, 16, 17, 18) to Mr. Slaughter at the Goodell address of record.

The reference 11 decision denied benefits for the week ending February 4, 2023, based on the deputy's conclusion Mr. Slaughter did not meet the reemployment activities requirement during that week and had earlier been warned.

The reference 13 decision denied benefits for the week ending February 18, 2023, based on the deputy's conclusion Mr. Slaughter did not meet the reemployment activities requirement during that week and had earlier been warned.

The reference 14 decision denied benefits for the week ending February 25, 2023, based on the deputy's conclusion Mr. Slaughter did not meet the reemployment activities requirement during that week and had earlier been warned.

The reference 15 decision denied benefits for the week ending March 4, 2023, based on the deputy's conclusion Mr. Slaughter did not meet the reemployment activities requirement during that week and had earlier been warned.

The reference 16 decision denied benefits for the week ending March 11, 2023, based on the deputy's conclusion Mr. Slaughter did not meet the reemployment activities requirement during that week and had earlier been warned.

The reference 17 decision denied benefits for the week ending March 18, 2023, based on the deputy's conclusion Mr. Slaughter did not meet the reemployment activities requirement during that week and had earlier been warned.

The reference 18 decision denied benefits for the period beginning May 7, 2023, based on a determination that Mr. Slaughter failed to report as directed during that week and, therefore, did not meet the availability requirements effective May 7, 2023.

Each of the seven decisions mailed to Mr. Slaughter on May 16, 2023 stated that the decision would become final unless an appeal was postmarked by May 26, 2023 or was received by the Appeals Section by that date. Mr. Slaughter did not file an appeal from any of the seven decisions by the May 26, 2023 appeal deadline.

On May 26, 2023, Iowa Workforce Development mailed the May 26, 2023 (reference 10) decision to Mr. Slaughter's Goodell address of record. The reference 10 decision denied benefits for the week ending April 1, 2023, based on the deputy's conclusion Mr. Slaughter did not meet the reemployment activities requirement during that week and had earlier been warned. The reference 10 decision stated the decision would become final unless an appeal was postmarked by June 5, 2023 or was received by the Appeals Section by that date. Mr. Slaughter did not file an appeal by the June 5, 2023 appeal deadline.

On June 16, 2023, Iowa Workforce Development mailed six overpayment decisions (reference 19, 20, 21, 22, 23 and 24) to Mr. Slaughter at the Goodell address of record.

The reference 19 decision held Mr. Slaughter was overpaid \$497.00 in benefits for the week ending February 18, 2023, due to a disqualification decision dated May 16, 2023.

The reference 20 decision held Mr. Slaughter was overpaid \$497.00 in benefits for the week ending March 11, 2023, due to a disqualification decision dated May 16, 2023.

The reference 21 decision held Mr. Slaughter was overpaid \$497.00 in benefits for the week ending March 18, 2023, due to a disqualification decision dated May 16, 2023.

The reference 22 decision held Mr. Slaughter was overpaid \$497.00 in benefits for the week ending March 25, 2023, due to a disqualification decision dated May 4, 2023.

The reference 23, decision held Mr. Slaughter was overpaid \$497.00 in benefits for the week ending April 1, 2023, due to a disqualification decision dated May 26, 2023.

The reference 24, decision held Mr. Slaughter was overpaid \$497.00 in benefits for the week ending February 4, 2023, due to a disqualification decision dated May 16, 2023.

Each of the six overpayment decisions mailed to Mr. Slaughter on June 16, 2023 stated that the decision would become final unless an appeal was postmarked by June 26, 2023 or was received by the Appeals Section by that date. Mr. Slaughter did not file an appeal from any of the six overpayment decisions by the June 26, 2023 appeal deadline.

After Mr. Slaughter established the new benefit year that was effective December 10, 2023, he commenced making weekly claims. Iowa Workforce Development commenced approving weekly benefits, but held back the benefits to offset the benefits against the prior overpayments of record.

On January 10, 2024, Mr. Slaughter used the Department of Inspections, Appeals, and Licensing (DIAL) Administrative Hearings Division non-unemployment insurance online appeal portal to submit an appeal. The appeal was forwarded to the Unemployment Insurance Appeals Bureau. The UI Appeals Bureau received the appeal on January 10, 2024 and treated it as a late appeal from reach of the decisions mentioned above.

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 87124.35(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 87124.35(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).

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 87124.35(2)(c).

The claimant's appeal in this matter was untimely. The evidence in the record establishes that IWD mailed the decision in a timely manner to the Goodell, Iowa address the claimant provided and that the USPS delivered the decision to that address of record in a timely manner. Through these steps, IWD provided the claimant a reasonable opportunity to file an appeal by the appeal deadline. The late filing of the appeal is entirely attributable to the claimant not taking reasonable steps to update his mailing address with IWD and not taking reasonable steps to have the USPS forward his mail from the Goodell, Iowa address. The claimant's delay in filing the appeal was unreasonable. By the time the claimant filed his appeal on January 10, 2024, the appeal was several months late. Even after the claimant established the new benefit year that was effective December 10, 2023 and IWD commenced withholding benefits in connection with the new claim, the claimant waited almost a month to file an appeal. Because the late filing of the appeal was not attributable to the Iowa Workforce Development error or misinformation or 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 87124.35(2). Because the appeal was untimely, the administrative law judge lacks jurisdiction to disturb the decision from which the appellant appeals in the present matter. 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 June 16, 2023 (reference 19) decision that held he was overpaid \$497.00 in benefits for the week ending February 18, 2023 remains in effect.



James E. Timberland
Administrative Law Judge

February 6, 2024
Decision Dated and Mailed

JET/jkb

APPEAL RIGHTS. If you disagree with the decision, you or any interested party may:

1. Appeal to the Employment Appeal Board within fifteen (15) days of the date under the judge's signature by submitting a written appeal via mail, fax, or online to:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

AN APPEAL TO THE BOARD SHALL STATE CLEARLY:

- 1) The name, address, and social security number of the claimant.
- 2) A reference to the decision from which the appeal is taken.
- 3) That an appeal from such decision is being made and such appeal is signed.
- 4) The grounds upon which such appeal is based.

An Employment Appeal Board decision is final agency action. If a party disagrees with the Employment Appeal Board decision, they may then file a petition for judicial review in district court.

2. If no one files an appeal of the judge's decision with the Employment Appeal Board within fifteen (15) days, the decision becomes final agency action, and you have the option to file a petition for judicial review in District Court within thirty (30) days after the decision becomes final. Additional information on how to file a petition can be found at Iowa Code §17A.19, which is online at <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Note to Parties: YOU MAY REPRESENT yourself in the appeal or obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds.

Note to Claimant: It is important that you file your weekly claim as directed, while this appeal is pending, to protect your continuing right to benefits.

SERVICE INFORMATION:

A true and correct copy of this decision was mailed to each of the parties listed.

DERECHOS DE APELACIÓN. Si no está de acuerdo con la decisión, usted o cualquier parte interesada puede:

1. Apelar a la Junta de Apelaciones de Empleo dentro de los quince (15) días de la fecha bajo la firma del juez presentando una apelación por escrito por correo, fax o en línea a:

**Employment Appeal Board
6200 Park Ave Suite 100
Des Moines, Iowa 50321
Fax: (515)281-7191
Online: eab.iowa.gov**

El período de apelación se extenderá hasta el siguiente día hábil si el último día para apelar cae en fin de semana o día feriado legal.

UNA APELACIÓN A LA JUNTA DEBE ESTABLECER CLARAMENTE:

- 1) El nombre, dirección y número de seguro social del reclamante.
- 2) Una referencia a la decisión de la que se toma la apelación.
- 3) Que se interponga recurso de apelación contra tal decisión y se firme dicho recurso.
- 4) Los fundamentos en que se funda dicho recurso.

Una decisión de la Junta de Apelaciones de Empleo es una acción final de la agencia. Si una de las partes no está de acuerdo con la decisión de la Junta de Apelación de Empleo, puede presentar una petición de revisión judicial en el tribunal de distrito.

2. Si nadie presenta una apelación de la decisión del juez ante la Junta de Apelaciones Laborales dentro de los quince (15) días, la decisión se convierte en acción final de la agencia y usted tiene la opción de presentar una petición de revisión judicial en el Tribunal de Distrito dentro de los treinta (30) días después de que la decisión adquiriera firmeza. Puede encontrar información adicional sobre cómo presentar una petición en el Código de Iowa §17A.19, que está en línea en <https://www.legis.iowa.gov/docs/code/17A.19.pdf>.

Nota para las partes: USTED PUEDE REPRESENTARSE en la apelación u obtener un abogado u otra parte interesada para que lo haga, siempre que no haya gastos para Workforce Development. Si desea ser representado por un abogado, puede obtener los servicios de un abogado privado o uno cuyos servicios se paguen con fondos públicos.

Nota para el reclamante: es importante que presente su reclamo semanal según las instrucciones, mientras esta apelación está pendiente, para proteger su derecho continuo a los beneficios.

SERVICIO DE INFORMACIÓN:

Se envió por correo una copia fiel y correcta de esta decisión a cada una de las partes enumeradas.