

IN THE COURT OF APPEALS OF IOWA

No. 17-0280
Filed September 13, 2017

TIMOTHY J. BENSON,
Petitioner-Appellant,

vs.

EMPLOYMENT APPEAL BOARD,
Respondent-Appellee.

Appeal from the Iowa District Court for Marshall County, James C. Ellefson, Judge.

An employee appeals the district court's judicial review decision affirming the Employment Appeal Board's decision denying unemployment benefits.

AFFIRMED.

C. Aron Vaughn of Kaplan & Frese, L.L.P., Marshalltown, for appellant.

Rick Autry of Employment Appeal Board, Des Moines, for appellee.

Considered by Vaitheswaran, P.J., and Doyle and Bower, JJ.

DOYLE, Judge.

Timothy Benson appeals from an adverse ruling on his petition for judicial review of a final agency decision of the Employment Appeal Board denying Benson's claim for unemployment benefits. Benson failed to timely appeal the factfinder's decision denying benefits. The administrative law judge (ALJ) who heard the appeal concluded, based on the evidence in the record regarding the timeliness of the appeal, he lacked jurisdiction to make a determination with respect to the appeal. The Employment Appeal Board affirmed the ALJ's decision. Benson petitioned the district court for judicial review asserting, as he does here, the operation of Iowa Code section 96.6(2) (2016) and Iowa Administrative Code rule 871-24.35(3) is unconstitutional as applied to the facts of his case, and that his delay in filing a notice of appeal was due in part to the United States Postal Service and should therefore be deemed timely pursuant to Iowa Administrative Code rule 871-24.35(2). The district court rejected Benson's arguments and affirmed the Employment Appeal Board's decision. Benson now appeals.

After a careful review of the record, the briefs of the parties, and the district court's thorough and well-reasoned ruling, we conclude the district court's opinion should be affirmed without opinion pursuant to Iowa Rule of Appellate Procedure 6.1203, subsections (a), (c), and (d).

AFFIRMED.