FILED
MAR 30 1993
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

No. 2-524 / 92-96

GEORGE ELEFTHEROPOULOS,

Petitioner-Appellant,

vs.

J.I. CASE,

Respondent-Appellee.

Appeal from the Iowa District Court for Scott County, Edward B. de Silva, Judge.

George Eleftheropoulos appeals a district court decision which affirmed the Industrial Commissioner's decision finding his notice of appeal was untimely and the Industrial Commissioner lacked jurisdiction to hear his appeal. **AFFIRMED.**

Thomas H. Preacher, Bettendorf, for appellant.

Martha L. Shaff of Betty, Neuman & McMahon, Davenport, for appellee.

Considered by Schlegel, P.J. and Sackett and Habhab, JJ.

PER CURIAM.

This appeal raises the questions of (1) whether the Industrial Commissioner can extend the time to appeal a deputy's decision to the Commissioner after the twenty-day period for appeal under the Administrative Rules has expired and, (2) if the Commissioner can extend the time, whether the Commission should have granted a motion to extend time for filing an appeal. We determine the Commissioner properly found there was not good cause to extend the time for filing an appeal. We do not address the first issue. We affirm.

On March 21, 1990, Deputy Industrial Commissioner Walter R. McManus, Jr. filed an arbitration decision denying petitioner-appellant George Eleftheropoulos's claim for compensation for an alleged injury that was to have occurred while petitioner was employed by J. I. Case, respondent-appellee.

On April 12, 1990 petitioner mailed, and on April 16, 1990 the Commissioner received, a notice that petitioner appealed the Deputy decision. Mailed and filed at the same time as the notice of appeal was petitioner's motion to extend the time for filing an appeal.

The Commissioner found petitioner's appeal was not filed in the twenty days provided for in the rule and therefore the Commissioner was without jurisdiction to entertain the motion.

Petitioner asked for rehearing and the Commissioner then found petitioner's motion to extend time would be overruled because the petitioner had not shown good cause for extending the time in so much as failure to know and follow agency rules was not good cause.

Petitioner contends the Industrial Commissioner erred in holding the timeliness of the appeal to be determined solely by Iowa Administrative Code rule 343-4.27. He contends Iowa Administrative Code rule 343-2.1 and Iowa Rule of Civil Procedure 83(a) gives the Industrial Commissioner the authority to extend the time for filing an appeal.

Iowa Code section 86.24(1), in part provides:

> Any party aggrieved by a decision, order, ruling, finding or other act of a Deputy Commissioner in a contested case proceeding arising under this chapter or chapter 85 or 85A may appeal to the Industrial Commissioner in the time and manner provided by rule.

The Industrial Commissioner promulgated rule 343 Iowa Administrative Code 4.27 that, in pertinent part, provides:

> an appeal to the Commissioner in contested case proceedings where the proceeding was commenced after July 1, 1975, shall be commenced within 20 days of the filing of the decision, order or ruling by filing a notice of appeal with the Industrial Commissioner.

Iowa Admin. Code r. 343-4.27 (1989).

Petitioner contends the Industrial Commissioner can extend the time for filing a notice of appeal for good cause under Iowa Administrative Code rule 343-2.1 that provides:

> Extending time and continuances. For good cause the Industrial Commissioner or the Commissioner's designee may modify the time to comply with any rule.

The twenty-day period to appeal from the deputy's decision under rule 4.27 ended on April 10. Petitioner's notice of appeal was received by the Industrial Commissioner on April 16. Petitioner also made a motion to extend time for filing the appeal that was received by the Industrial Commissioner on the same date.

On April 24, the Industrial Commissioner dismissed the appeal and the motion to extend time because they were not timely filed. On May 25, the Industrial Commissioner filed an "Appeal Ruling" which stated:

> A prior appeal ruling filed April 24, 1990 dismissed this matter on the Industrial Commissioner's own motion for failure to timely file an appeal. That ruling also determined that claimant's motion to extend time (and the amendment and addendum thereto) were to be considered now, the motion would be overruled because claimant has not provided good cause for extending the time to file notice of appeal. Failure to know and follow agency rules does not constitute good cause.

Without addressing whether the Industrial Commissioner could have extended the time for filing an appeal, we find the Industrial Commissioner's May 25 ruling determined petitioner had not provided good cause for extending the time to file notice of appeal.

The Commissioner's findings have the affect of a jury verdict, and the court is to broadly and liberally apply

those findings in order to uphold rather than defeat the Commissioner's decision. King v. City of Mt. Pleasant, 474 N.W.2d 564, 565 (Iowa 1991).

AFFIRMED.