

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**ASHLEY J MC GOWAN**  
Claimant

**APPEAL NO: 13A-UI-08329-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**WORKSOURCE INC**  
Employer

**OC: 06/30/13  
Claimant: Respondent (4)**

Iowa Code § 96.6(2) – Timely Protest  
Iowa Code § 96.7(2)a – Employer Liability

**PROCEDURAL STATEMENT OF THE CASE:**

The employer appealed July 16, 2013 determination (reference 03) that held the claimant eligible to receive benefits and the employer's account subject to charge because the employer had not filed a timely protest. The claimant did not respond to the hearing notice. Heather Parsons appeared on the employer's behalf. Based on the evidence, the employer's arguments and the law, the administrative law judge finds the employer filed a timely protest and its account will be relieved from charge.

**ISSUES:**

Did the employer file a timely protest or establish a legal excuse for filing a late protest?

Is the employer's account relieved from charge?

**FINDINGS OF FACT:**

The most recent assignment the employer gave the claimant started on May 9, 2012. The claimant's last day of work at this assignment was June 12, 2012. The claimant did not complete this assignment. She was scheduled to work after June 12, but did not call or report to work after June 12, 2012. The employer no longer considered her an employee as of June 22, 2012, because she abandoned her employment.

Between June 22, 2012, and June 30, 2013, the claimant worked for another employer and earned more than ten times her weekly benefit amount or more than \$1,130.00.

The claimant established a claim for benefits during the week of June 30, 2013. A notice of claim was mailed to the employer on July 2, 2013. The employer received the notice of claim on July 3, 2013. The notice of claim informed the employer the due date was July 12, 2013. Parsons completed the protest and faxed the completed form to the Department on July 12, 2013.

**REASONING AND CONCLUSIONS OF LAW:**

The law provides that all interested parties shall be promptly notified about an individual filing a claim. The parties have ten days from the date of mailing the notice of claim to protest payment of benefits to the claimant. Iowa Code § 96.6(2). Another portion of Iowa Code § 96.6(2) dealing with timeliness of an appeal from a representative's decision states an appeal must be filed within ten days after notification of that decision was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court has held that this statute clearly limits the time to do so, and compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979).

The reasoning and holding of the *Beardslee* court is considered controlling on the portion of Iowa Code § 96.6(2) which deals with the time limit to file a protest after the notice of claim has been mailed to the employer. The facts indicate the employer faxed the completed protest on July 12, 2013. The employer filed a timely protest. Therefore, there is legal jurisdiction to relieve the employer's account from charge.

The next issue is whether the employer's account is subject to charge. An employer's account is relieved from charge when a claimant voluntarily quits employment without good cause attributable to the employer or the employer discharges the claimant for reasons amounting to work-connected misconduct. Iowa Code § 96.7(2)a. The facts establish the claimant voluntarily quit her employment by abandoning it. Therefore, she quit without good cause attributable to the employer. The employer's account will not be charged.

Since the claimant earned requalifying wages between June 22, 2012, and June 30, 2013, she remains eligible to receive benefits.

**DECISION:**

The representative's July 16, 2013 determination (reference 03) is modified in the employer's favor. The employer filed a timely protest. The employer's account will not be charged. As of June 30, 2013, the claimant remains eligible to receive benefits.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

dlw/pjs