

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMIE L NELSON
Claimant

APPEAL NO. 13A-UI-00774-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS FARGO BANK NA
Employer

OC: 12/09/12
Claimant: Appellant (1)

Section 96.4-3 - Able to and Available for Work
Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated January 9, 2013, reference 01, that concluded she was not eligible for unemployment insurance benefits because she was on a leave of absence. A telephone hearing was held on February 18, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Kelley Landolphi participated in the hearing on behalf of the employer with a witness, Chad Bailiff.

ISSUE:

Is the claimant on a leave of absence from her employer?

FINDINGS OF FACT:

The claimant worked full time as a quality assurance analyst for the employer from December 2005 to October 16, 2012.

After October 16, 2012, the claimant requested and was granted a medical leave of absence from her employer. She requested the medical leave because of medical problems that prevented her from performing her normal job duties that involved sitting for prolonged periods of time and using a computer for long periods of time.

As of the date of the hearing on February 18, 2013, the claimant was still on a leave of absence from the employer. She was informed by someone in human resources that if she had not found a position she could perform or presented another medical statement to extend her leave of absence she would be terminated as of March 1, 2013.

The claimant has not voluntarily quit her employment and has not been discharged by the employer. She remained an employee up until the time of the hearing.

An unemployment insurance decision was mailed to the claimant's last-known address of record on January 9, 2013. The decision concluded she was on a leave of absence and stated the

decision was final unless a written appeal was postmarked or received by the Appeals Section by January 19, 2013, unless that date was a Saturday, Sunday, or holiday. The claimant mailed a written appeal on January 22, 2013, as shown by the postmark date. This was the first business day after January 19 since January 19 was a Saturday and January 21 was a holiday, Martin Luther King Jr. Day.

REASONING AND CONCLUSIONS OF LAW:

The issue in this case is whether the claimant filed a timely appeal.

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last known address. If the tenth day is on a Saturday, Sunday, or holiday, the party has until the next business day to file an appeal. Iowa Code § 96.6-2. The claimant's appeal time ran on a Saturday. Monday was Martin Luther King Jr. Day, a legal holiday, so the claimant's appeal postmarked on January 22, 2013, was timely.

The next issue is whether the claimant was on a leave of absence from her employer.

871 IAC 24.23(10) provides:

Availability disqualifications. The following are reasons for a claimant being disqualified for being unavailable for work.

(10) The claimant requested and was granted a leave of absence, such period is deemed to be a period of voluntary unemployment and shall be considered ineligible for benefits for such period.

The claimant requested and received a leave of absence from the employer. She was still on that leave of absence as of the date of the hearing. She states that her employment would potentially be terminated if she did not return to work by March 1 or her leave of absence was not extended but that had not occurred yet.

The claimant is ineligible for benefits effective December 9, 2012.

DECISION:

The unemployment insurance decision dated January 9, 2013, reference 01, is affirmed. The claimant is ineligible for benefits effective December 9, 2012. If circumstances change regarding her employment status and she believes the disqualification should be removed, she will need to contact her local Workforce Development Center and request that it be removed and show that she is now eligible for benefits.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css