

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

WENDY S HARRISON
Claimant

APPEAL NO. 12A-UI-13956-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FULL CIRCLE SERVICES INC
Employer

OC: 08/05/12
Claimant: Respondent (4)

Section 96.5-1 – Voluntary Quit
Section 96.6-2 – Timeliness of Protest

STATEMENT OF THE CASE:

Employer filed an appeal from a decision of a representative dated November 15, 2012, reference 03, which held claimant eligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on December 20, 2012. Claimant participated. Employer participated by Matt Archibald, Human Resource Coordinator. Exhibit One was admitted into evidence.

ISSUE:

The issue in this matter is whether claimant quit for good cause attributable to employer. The issue in this matter is whether the employer's protest is timely.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on July 13, 2012. Claimant quit for new and better employment. Claimant worked in and received wages at the new job.

Employer did not receive a copy of the protest form. Employer protested immediately upon notice of a claim.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because of new and better employment. However, claimant is still qualified based on a quit for a new job. Employer's account shall not be charged.

Iowa Code section 96.5-1-a provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

Employer's protest is timely. Employer did not receive the original notice of claim. Employer promptly protested upon receipt of actual notice.

Iowa Code section 96.6-2 provides in pertinent part:

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.

DECISION:

The decision of the representative dated November 15, 2012, reference 03, is modified in favor of employer. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible. Employer's protest is timely. Employer's account shall not be charged.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/pjs