

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NANCI A GEIGER
Claimant

APPEAL NO. 11A-UI-08803-AT

**ADMINISTRATIVE LAW JUDGE
DECISION**

ABM JANITORIAL SERVICES NORTH
Employer

OC: 11/07/10
Claimant: Appellant (1)

871 IAC 24.27 – Quit from Part-Time Employment
Section 96.6-2 – Timely Appeal

STATEMENT OF THE CASE:

Nanci A. Geiger filed an appeal from an unemployment insurance decision dated December 15, 2010, reference 02, that ruled she had voluntarily left part-time employment with ABM Janitorial Services North without good cause attributable to the employer. After due notice was issued, a telephone hearing was held July 22, 2011, with Ms. Geiger participating. District Manager Patti Lee testified for the employer, which was represented by Sandra Linsin of Employer's Edge. Exhibit D-1 was admitted into evidence. This matter is considered on a consolidated record with 11A-UI-08273-AT and 11A-UI-08274-AT. The administrative law judge takes official notice of Agency benefit payment records.

ISSUES:

Has the claimant filed a timely appeal?

Did the claimant leave part-time employment without good cause attributable to the employer?

FINDINGS OF FACT:

Nanci A. Geiger was employed as a janitor by ABM Janitorial Services North from August 1, 2008, until she resigned September 16, 2010. She was a part-time employee. Ms. Geiger resigned because her supervisor issued a written warning because Ms. Geiger had missed work the day before because of a family illness. She resigned because she felt that she should not have received a warning at all.

Ms. Geiger did not receive the fact-finding decision dated December 15, 2010, that had ruled that her resignation was without good cause attributable to the employer. She filed an appeal promptly after learning of the consequences of that decision.

REASONING AND CONCLUSIONS OF LAW:

The first question is whether the administrative law judge has jurisdiction to rule on the merits of this case. He does.

Iowa Code section 96.6-2 gives individuals ten days from the date of a fact-finding decision to file an appeal. Additional time for an appeal may be granted if the delay is the fault of the U.S. Postal Service or Iowa Workforce Development. See 871 IAC 24.35.

The evidence persuades the administrative law judge that the U.S. Postal Service did not deliver the December 15, 2010 decision to Ms. Geiger. Thus, her timely appeal from the two subsequent decisions is sufficient to confer jurisdiction to the administrative law judge.

The remaining question concerns the unemployment insurance consequences of the claimant's voluntary resignation. Iowa Code section 96.5-1 disqualifies an individual for benefits if the individual has left work voluntarily without good cause attributable to the employer. Resignation following a reprimand is considered to be a quit without good cause attributable to the employer. See 871 IAC 24.25(28). Had this been full-time employment, the claimant would have been totally disqualified for benefits. However, 871 IAC 24.27 dictates a different result because the employment was part-time. According to the rule, the claimant remains entitled to receive unemployment insurance benefits based on her other base period wages. The wages from the part-time employer, however, are removed from the computation of benefits. In other words, Ms. Geiger remains eligible for benefits at a reduced level. Since the separation was without good cause attributable to the employer, the employer shall not be charged.

DECISION:

The unemployment insurance decision dated December 15, 2010, reference 02, is affirmed. The claimant quit part-time employment without good cause attributable to the employer. The claimant remains eligible to receive benefits based on other base period wages. The employer shall not be charged with benefits.

Dan Anderson
Administrative Law Judge

Decision Dated and Mailed

kjw/kjw