

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JASON M WELLER
Claimant

APPEAL NO. 13A-UI-08818-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

L A LEASING INC
Employer

OC: 01/29/12
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit
Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated April 4, 2012, reference 02, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on September 4, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing. Colleen McGuinty participated in the hearing on behalf of the employer with a witness, Shelby Kingery.

ISSUES:

Did the claimant file a timely appeal?
Did the claimant voluntarily quit employment without good cause attributable to the employer?

FINDINGS OF FACT:

The employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked for the employer as a concrete worker assigned to work at Clinton Engineering from October 31, 2011, to December 21, 2011. When the claimant was hired, he was given a statement to read and sign that said he would be considered to have voluntarily quit employment if he did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

The claimant informed by an employee of Clinton Engineering that it was too cold for concrete work and that there would be no work available until spring. The claimant never contacted the employer to see if the employer had any other work available.

An unemployment insurance decision was mailed to the claimant's last-known address of record on April 4, 2012. The decision concluded the claimant had voluntarily quit employment without good cause because he did not contact the employer within three days and request a new assignment. The decision stated it was final unless a written appeal was postmarked or received by the Appeals Section by April 14, 2012.

The claimant never received the disqualification decision. He filed a written appeal on July 31, 2013, after he received an overpayment decision dated July 25, 2013, which was based on the disqualification decision.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this case is whether the claim 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. Iowa Code § 96.6-2.

The Iowa Supreme Court has ruled that appeals from unemployment insurance decisions must be filed within the time limit set by statute and the administrative law judge has no authority to review a decision if a timely appeal is not filed. Franklin v. IDJS, 277 N.W.2d 877, 881 (Iowa 1979); Beardslee v. IDJS, 276 N.W.2d 373 (Iowa 1979). In this case, the claimant's appeal of the disqualification decision was filed after the deadline for appealing expired but he did not have a reasonable opportunity to file a timely appeal because he never received the decision when it was issued. The appeal is deemed timely.

Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

The claimant was given a statement informing him that he was required to contact the employer within three days after completing a work assignment to ask for an assignment. He did not do so and is considered to have voluntarily quit employment without good cause attributable to the employer.

DECISION:

The unemployment insurance decision dated April 4, 2012, reference 02, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css