

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

BRANDY NORDMARK
Claimant

APPEAL NO: 09A-UI-14472-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

FAGEN INC
Employer

OC: 08/09/09
Claimant: Appellant (1)

Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

Brandy Nordmark (claimant) appealed an unemployment insurance decision dated September 3, 2009, reference 01, which held that she was not eligible for unemployment insurance benefits because she voluntarily quit her employment with Fagen Construction of Minnesota (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on October 28, 2009. The claimant participated in the hearing. The employer participated through Chelsey Zimmer, Human Resources Assistant. Exhibit D-1 was admitted into evidence. Based on the evidence, the arguments of the parties, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's appeal is timely, and if so, whether her voluntary separation from employment qualifies her to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: A disqualification decision was mailed to the claimant's last-known address of record on September 3, 2009. The claimant did not receive the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by September 13, 2009. The claimant called Iowa Workforce Development and learned that she had been disqualified. She promptly filed an appeal on September 28, 2009, which is after the date noticed on the disqualification decision.

The claimant was employed as a full-time pipe fitter helper from April 4, 2007 through July 24, 2009. She contends Mike Schaub, Project Manager, told her she was laid off work. However, Mr. Schaub completed paperwork documenting that the claimant voluntarily quit.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code § 96.6-2 provides in pertinent part:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless the claimant or other interested party, after notification or within ten calendar days after notification was mailed to the claimant's last known address, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The claimant did not receive the decision within the ten-day time period allowed for the appeal. She did file an appeal immediately upon receiving information she had been disqualified. Therefore, the appeal shall be accepted as timely.

The substantive issue to be determined in this case is whether the claimant's voluntary separation from employment qualifies her to receive unemployment insurance benefits. She is not qualified to receive unemployment insurance benefits if she voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant contends the project manager told her she was laid off work but that same project manager documented in writing that the claimant quit. The employer witness testified if the project manager would have given them other information, the separation information would have been corrected but he had not done so. The project manager was called but was not available.

It is the claimant's burden to prove that the voluntary quit was for a good cause that would not disqualify her. Iowa Code § 96.6-2. She has not satisfied that burden and benefits are denied.

DECISION:

The claimant's appeal is timely. The unemployment insurance decision dated September 3, 2009, reference 01, is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs