

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMES L WELLS
Claimant

A LEO PELDS ENGINEERING COMPANY
Employer

APPEAL 20A-UI-04932-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 02/24/19
Claimant: Appellant (4)**

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.5(2)a – Discharge for Misconduct - Requalification

STATEMENT OF THE CASE:

On May 29, 2020, James L. Wells (claimant) filed an appeal from the February 7, 2020, reference 01, unemployment insurance decision that denied benefits based upon the determination A Leo Pelds Engineering Company (employer) discharged him for conduct not in its best interest. The parties were properly notified about the hearing scheduled for June 25, 2020. However, no hearing was held as there was sufficient evidence in the appeal letter and administrative record to resolve the matter without testimony.

ISSUES:

Is the claimant's appeal timely?
Has the claimant requalified for benefits since the separation from this employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last known address of record on February 7, 2020. He received the decision within the appeal period. The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by February 17. The claimant did not file an appeal until May 29, which is after the date noticed on the disqualification decision.

The claimant separated from the employer on January 8 and obtained subsequent employment where he earned more than \$4,810.00 in insured wages during the first quarter of 2020. The claimant filed his new claim for benefits effective April 12 and his weekly benefit amount is \$481.00. The claimant has requalified for benefits since the separation from the employer (account number 073650) by earning ten times his weekly benefit amount in insured wages following the separation.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes claimant's appeal is untimely but he has requalified for benefits since the separation and before the current claim period.

Iowa Code section 96.6(2) provides:

Filing – determination – appeal.

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. 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. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:
 - a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant has requalified for benefits since the separation from this employer and since the prior claim year's separation decision. Accordingly, benefits are allowed provided he is otherwise eligible, and the account of the employer (account number 073650) shall not be charged.

DECISION:

The February 7, 2020, reference 01, unemployment insurance decision is modified in favor of appellant. The appeal in this case was not timely, but the claimant has requalified for benefits since the separation and before the current claim year. Any benefits claimed and withheld on this basis shall be paid to the claimant, provided he is otherwise eligible.



Stephanie R. Callahan
Administrative Law Judge

July 8, 2020
Decision Dated and Mailed

src/scn