

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRICIA L HUFF
Claimant

US POSTAL SERVICES
Employer

APPEAL 22A-UI-08555-DB-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Appellant (5)

Iowa Code § 96.5(1) – Voluntary Quitting of Work
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant/appellant filed an appeal from the March 2, 2022 (reference 05) unemployment insurance decision that found claimant was not eligible for benefits due to a voluntary quitting of work. The parties were properly notified of the hearing. A telephone hearing was held on May 17, 2022. The claimant participated personally. The employer did not participate. The administrative law judge took administrative notice of the claimant's unemployment insurance benefits records. The hearing was consolidated with Appeal No. 22A-UI-08556-DB-T and 22A-UI-08557-DB-T.

ISSUES:

Did the claimant file a timely appeal?

Did the claimant voluntarily quit work without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: An unemployment insurance benefits decision was issued on March 2, 2022 (reference 05) and mailed to the claimant's correct address of record. The claimant never received the decision in the mail. The claimant received two other overpayment decisions and filed an appeal to those decisions on April 5, 2022.

The claimant began working for this employer sometime in the spring or summer of 2019. She worked there for approximately three months. She was unable to lift the required amount to complete her job duties due to a personal injury she sustained. Claimant voluntarily quit her position with this employer in August of 2019. From September of 2019 through December 15, 2019, the claimant completed work for Hands Up Communication as an independent contractor. Effective December 16, 2019, the claimant began working for Hands Up Communication as a full-time administrative assistant. Effective March 15, 2020, the claimant was laid off from her work as a full-time administrative assistant with Hands Up Communication due to the COVID-19 pandemic and business shutdowns. She was laid off due to the COVID-19 pandemic for the weeks of March 15, 2020 through May 2, 2020.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes as follows:

The first issue is whether the claimant's appeal shall be considered timely. The administrative law judge finds that it shall be considered timely.

Iowa Code section 96.6(2) provides:

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 issuing the notice of the filing of the claim to protest payment of benefits to the claimant. All interested parties shall select a format as specified by the department to receive such notifications. 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 issued, 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 Admin. Code r. 871-24.35(2) provides:

Date of submission and extension of time for payments and notices.

(2) The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

- b. The division shall designate personnel who are to decide whether an extension of time shall be granted.
- c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the department after considering the circumstances in the case.
- d. If submission is not considered timely, although the interested party contends that the delay was due to division error or misinformation or delay or other action of the United States postal service, the division shall issue an appealable decision to the interested party.

The ten calendar days for appeal begins running on the mailing date. The "decision date" found in the upper right-hand portion of the representative's decision, unless otherwise corrected immediately below that entry, is presumptive evidence of the date of mailing. *Gaskins v. Unempl. Comp. Bd. of Rev.*, 429 A.2d 138 (Pa. Comm. 1981); *Johnson v. Bd. of Adjustment*, 239 N.W.2d 873, 92 A.L.R.3d 304 (Iowa 1976). In this case, the claimant never received the decision in the mail due to postal service delay or error. As such, the appeal shall be considered timely pursuant to Iowa Admin. Code r. 871-24.35(2).

The next issue is whether the claimant's separation from employment was disqualifying. The administrative law judge finds that it was.

Iowa Code §96.5(1) 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.

Claimant had an intention to quit and carried out that intention by tendering a resignation. As such, claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

Iowa Admin. Code r. 871-24.25(37) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

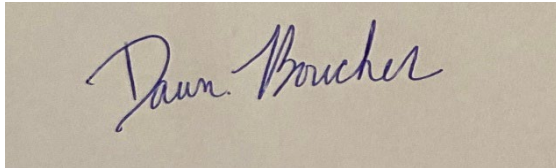
- (37) The claimant will be considered to have left employment voluntarily when such claimant gave the employer notice of an intention to resign and the employer accepted such resignation. This rule shall also apply to the claimant who was employed by an educational institution who has declined or refused to accept a new contract or

reasonable assurance of work for a successive academic term or year and the offer of work was within the purview of the individual's training and experience.

The claimant voluntarily quit her employment by tendering her resignation because she could no longer complete the physical job requirements. Her voluntary quitting was not attributable to the employer. As such, unemployment insurance benefits funded by the State of Iowa are denied effective her original claim date of March 15, 2020, as the separation from employment was disqualifying.

DECISION:

The appeal shall be considered timely. The March 2, 2022 (reference 05) unemployment insurance decision is modified with no change in effect. The claimant voluntarily quit her employment without good cause attributable to the employer in August of 2019. Unemployment insurance benefits funded by the State of Iowa are denied until claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount after the August, 2019 separation date and provided the claimant is otherwise eligible.



Dawn Boucher
Administrative Law Judge

May 19, 2022
Decision Dated and Mailed

db/db

NOTE TO CLAIMANT: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.

Individuals who do not qualify for regular unemployment insurance benefits and were unemployed between February 2, 2020 and June 12, 2021 for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA).

You will need to apply for PUA to determine your eligibility under the program. To apply for PUA go to <https://www.iowaworkforcedevelopment.gov/unemployment-insurance-appeals> and click the link in the last paragraph under "WHAT TO EXPECT FROM THE HEARING."

The authorization number is 108555, the pin number you used for the hearing.

If this decision becomes final and you are not eligible for PUA, you may have an overpayment of benefits.