

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MICHEALA M GRAHAM**  
Claimant

**APPEAL NO. 11A-UI-09256-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CEDAR RAPIDS COMM SCHOOL DIST**  
Employer

**OC: 05/29/11  
Claimant: Appellant (2)**

Section 96.5-1-a – Voluntary Quit to Accept Other Employment  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated July 1, 2011, reference 04, that concluded she was ineligible for benefits based on school employment between school years. A telephone hearing was held on August 4, 2011. The claimant participated in the hearing with her representative, Christy Hickman, attorney at law. Stephanie Krause participated on behalf of the employer.

**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 claimant worked for the employer as a substitute teacher starting in February 12, 2009. She voluntarily left employment in September 2010, to accept a full-time teaching job with the Maquoketa School District. The claimant performed services for Maquoketa School District until April 2011.

An unemployment insurance decision was mailed to the claimant's last-known address on July 1, 2011. The decision concluded the claimant was ineligible for benefits based on school employment between school years and stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by July 11, 2011.

The claimant did not receive the decision within the ten-day period for appealing the decision. She received the decision on July 13, 2011, because she had moved and the decision had to be forwarded to her new address. She filed a written appeal on July 15, 2011.

## REASONING AND CONCLUSIONS OF LAW:

The first issue in this case is whether the claimant 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 was filed after the deadline for appealing expired.

The next question is whether the claimant had a reasonable opportunity to file an appeal in a timely fashion. Hendren v. IESC, 217 N.W.2d 255 (Iowa 1974); Smith v. IESC, 212 N.W.2d 471, 472 (Iowa 1973). The evidence establishes the claimant did not have a reasonable opportunity to file a timely appeal because she had moved and she did not receive the decision until July 13, 2011. She promptly appealed the decision on July 15, 2011, and the appeal is deemed timely.

The next issue in this case is whether the claimant voluntarily quit employment without good cause attributable to the employer.

Iowa Code § 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:
  - a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant left work to accept other employment and performed services in that new employment. The claimant is qualified to receive unemployment insurance benefits based on her separation from employment with the employer, provided she is otherwise eligible. Pursuant to the statute, the employer's account will not be charged for benefits paid to the claimant.

**DECISION:**

The unemployment insurance decision dated July 1, 2011, reference 04, is reversed. The claimant is qualified to receive unemployment insurance benefits, provided she is otherwise eligible. The employer's account will be exempt from charge for benefits paid to the claimant.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/pjs