

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

TRISA POWERS
Claimant

APPEAL 20A-UI-06519-BH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

PELLA CORPORATION
Employer

OC: 04/19/20
Claimant: Appellant (2)

Iowa Code section 96.6(2) – Timeliness of Appeal
Iowa Code section 96.5(1) – Voluntary Quit
Iowa Code section 96.5(2)(a) – Discharge for Misconduct
Iowa Administrative Code rule 871-24.32(1)(a) – Discharge for Misconduct
Iowa Administration Code rule 871-24.1(113)(a) – Layoffs

STATEMENT OF THE CASE:

Trisa Powers appealed the June 1, 2020 (reference 01) unemployment insurance decision that denied benefits. The agency properly notified the parties of the hearing. The undersigned presided over a telephone hearing on July 23, 2020. Powers participated personally and testified. Pella Corporation (Pella) did not participate.

ISSUE:

Did Powers timely file an appeal?

Was Powers's separation from employment with Pella a layoff, discharge for misconduct, or voluntary quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the undersigned finds the following facts.

Pella hired Powers on March 19, 2018. She worked there full time doing direct casement. Powers was employed with Pella from the date of hire through the date of hearing.

Powers has never possessed the intent to quit her job with Pella. She never took any action that could be construed to be an effort to quit her job. Between the date of hire and date of hearing, Powers never voluntarily left employment with Pella.

The demand for Pella windows went down because of COVID-19. Pella responded by placing its employees on mandatory furlough. Powers did not have a choice about going on furlough. Pella required it. Her furlough consisted of two full weeks:

- 1) April 26, 2020, through May 2, 2020; and
- 2) May 10, 2020, through May 16, 2020

During each of these two weeks, Powers performed no work for Pella. Powers earned no wages from Pella during either week.

Powers filed an initial claim for regular unemployment insurance benefits under Iowa law because of the mandatory furlough. She inadvertently indicated on the application that she had quit her job.

After the decision denying her benefits, Powers communicated with agency staff. She promptly filed the appeal after learning she needed to do so despite the fact that the basis for the unemployment insurance decision's erroneous determination was with her application. Thus, the agency made an error in not giving her timely information.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes Powers timely filed her appeal and Powers never quit her job. She is eligible for benefits for each of the two weeks during which Pella placed her on mandatory furlough.

Iowa Code section 96.6(2) requires appeals to be filed within ten days for them to be timely. Iowa Administrative Code rules 871-24.35(2) states:

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 division 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.

Here, the Division of Unemployment Insurance Services provided Powers with late advice by email that she promptly acted upon by filing an appeal. Therefore, the cause of Powers's late appeal was Division error under rule 871-24.25(2). Powers's appeal is consequently timely and the substance of her appeal may be addressed.

Iowa Code section 96.5(1) disqualifies a claimant from benefits if the claimant quit her job without good cause attributable to the employer. For a quit to have occurred under section 96.5(1), the claimant must have:

- 1) Intended to leave her employment; and
- 2) Acted to carry out that intent. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980).

Powers never intended to quit her job with Pella. She took no action carrying out such intent. Powers did not even take action that could be mistakenly interpreted as an attempt to quit her job. The evidence establishes Powers did not voluntarily leave employment with Pella between her date of hire and the date of hearing.

Rather, the evidence establishes Pella mandated a temporary separation from employment with Powers (and her fellow employees at the plant) in the form a mandatory furlough. Such a mandatory furlough constitutes a "layoff" under agency rules. Iowa Administration Code rule 871-24.1(113)(a) states:

All terminations of employment, generally classifiable as layoffs, quits, discharges, or other separations.

- a. Layoffs. A layoff is a suspension from pay status initiated by the employer without prejudice to the worker for such reasons as: lack of orders, model changeover, termination of seasonal or temporary employment, inventory-taking, introduction of laborsaving devices, plant breakdown, shortage of materials; including temporarily furloughed employees and employees placed on unpaid vacations.

Under Iowa Administrative Code rule 24.32(1)(a),

"Misconduct" is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The Iowa Supreme Court has ruled this definition accurately reflects the intent of the legislature. *Huntoon v. Iowa Department of Job Service*, 275 N.W.2d 445, 448 (Iowa 1979).

The evidence shows Pella implemented the mandatory furlough because of reduced demand in the marketplace for windows. Powers had no choice in the matter. Her two weeks on unpaid furlough were mandatory. Pella did not place Powers on furlough because of any job-related misconduct on her part.

For the reasons above, the evidence establishes Powers did not voluntarily leave employment with Pella. Rather, Pella initiated a mandatory furlough that constitutes a layoff under agency rules. Powers and her fellow employees were put on furlough because of a reduction in marketplace demand. Powers is therefore eligible for benefits in each of the two weeks she was on mandatory furlough.

DECISION:

The June 11, 2020 (reference 01) unemployment insurance decision is reversed. Powers did not quit her job with Pella. Pella placed Powers on mandatory furlough for the weeks beginning on April 26, 2020, and May 10, 2020. Powers is entitled to benefits for each of these two weeks. Benefits are allowed, provided Powers is otherwise eligible.

A handwritten signature in black ink, appearing to read "Ben Humphrey", with a large, stylized flourish at the end.

Ben Humphrey
Administrative Law Judge

July 30, 2020
Decision Dated and Mailed

bh/sam