

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

CHRISTIE L ARMENDARIZ
Claimant

APPEAL NO. 13A-UI-13105-NT

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC
Employer

OC: 05/12/13
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.6-2 – Timeliness of Appeal
871 IAC 26.8(5) – Decision on the Record

STATEMENT OF THE CASE:

An appeal was filed from an unemployment insurance decision dated November 14, 2013, reference 02, that denied unemployment insurance benefits. A telephone hearing was scheduled for December 16, 2013. The claimant, the appellant herein, did not respond to the notice of hearing. The employer participated by Ms. Rhonda Hefter De Santisteban, Human Resource Supervisor Ms. Ashley Coleman, Placement Coordinator and Kazoua Loh, Customer Service Representative. Based upon the appellant's failure to participate in the hearing, a review of the administrative file and the record, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

At issue in this matter is whether the decision previously entered should be affirmed.

FINDINGS OF FACT:

The parties were properly notified of the scheduled hearing on this appeal. The appellant failed to provide a telephone number at which she could be reached for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice.

The administrative law judge has conducted a careful review of the administrative file and the record to determine whether the unemployment insurance decision should be affirmed.

The claimant's appeal in this matter was due to be postmarked or received by the Appeals Section by November 24, 2013. The appeal was not received until November 27, 2013, which is beyond the ten-day statutory time limit. The record contains no good-cause reason for the filing of this appeal late.

Ms. Armendariz began employment with QPS Employment Group, Inc. on September 17, 2013. On October 28, 2013, the claimant accepted a long-term assignment with the Modern Ag

Company in a janitorial position. Prior to accepting the assignment the claimant as given a job description of the duties that were included and the temporary employment service explained in detail the nature of the work and the fact that the facility where the claimant would be working had previously been closed and would need additional janitorial work. The claimant was advised of a contact number and told to contact QPS Employment Group, Inc. with any job-related issues or questions. Approximately 9:00 a.m. that morning, the claimant called and informed the temporary employment service that she had quit her position and had already clocked out because she did not like the work. Prior to leaving the assignment the claimant had not contacted the temporary service employer to provide them an opportunity to rectify any areas of dissatisfaction the claimant may have had with her job assignment.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge has carefully reviewed the available evidence in the record and concludes that the unemployment insurance decision previously entered in this case is correct and should be affirmed.

871 IAC 26.8(3), (4) and (5) provide:

Withdrawals and postponements.

(3) If, due to emergency or other good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

(5) If good cause for postponement or reopening has not been shown, the presiding officer shall make a decision based upon whatever evidence is properly in the record.

Iowa Code section 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.

The claimant was informed in advance of the nature of the work and had accepted it. The claimant was given a reasonable option of calling her employer to complain of any working conditions that were not acceptable but did not exercise the option until after she had left the assignment without advance permission. Because the claimant was aware of the nature of the work and had accepted it, the administrative law judge concludes the claimant has not met her

burden of proof in establishing good cause attributable to the employer for leaving this employment. The claimant did not file a timely appeal in this matter.

Pursuant to the rule, the appellant must make a written request to the administrative law judge that the hearing be reopened within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the beginning of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at its scheduled time.

DECISION:

The unemployment insurance decision dated November 14, 2013, reference 02, is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount and is otherwise eligible.

Terence P. Nice
Administrative Law Judge

Decision Dated and Mailed

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