

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JOE E PALMER
Claimant

APPEAL 21A-UI-22478-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

DAVENPORT COMMUNITY SCH DIST
Employer

OC: 05/17/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit from Employment
Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On October 11, 2021, claimant Joe E. Palmer filed an appeal from the December 4, 2020 (reference 01) unemployment insurance decision that denied benefits based on a determination that claimant voluntarily quit his position for personal reasons. The parties were properly notified of the hearing. A telephonic hearing was held at 9:00 a.m. on Monday, December 13, 2021. Appeal numbers 21A-UI-22478-LJ-T, 21A-UI-22479-LJ-T, 21A-UI-22480-LJ-T, 21A-UI-22481-LJ-T, and 21A-UI-22482-LJ-T were heard together and created one record. The claimant, Joe E. Palmer, participated along with witness Lynn Palmer. The employer, Davenport Community School District, participated through Julie Ditch, HR Generalist. Department's Exhibits D-1 and D-2 were received and admitted into the record. The administrative law judge took official notice of the administrative record.

ISSUE:

Did the claimant file a timely appeal?
Did the claimant voluntarily quit without good cause attributable to the employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for the Davenport Community School District on September 10, 2018. He worked for the district as a full-time campus security employee. Claimant's employment ended on August 1, 2019, when he resigned. Claimant submitted a resignation letter to the school principal, the director of security, and the school district and notified everyone he was leaving employment.

Claimant decided to resign because his son was having serious health issues. Due to these pressing family issues, claimant was no longer to engage in full-time employment. This was the only reason that claimant decided to leave his position with the district. He was not at any risk of discharge or layoff at the time of his resignation.

The unemployment insurance decision was mailed to the claimant's address of record on December 4, 2020. The claimant gave conflicting testimony regarding whether he received the decision. Claimant is first certain he received notice of disqualification when he obtained the four overpayment decisions dated October 4, 2021. The appeal was sent within ten days after receipt of the overpayment decisions.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant separated without good cause attributable to the employer. Benefits are withheld.

The first issue to be considered in this appeal is whether the appellant's appeal is timely. The administrative law judge determines it is.

Iowa Code § 96.6(2) provides, in pertinent part: “[u]nless 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.”

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

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.

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). 00194 Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee*

v. IDJS, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

The claimant did not have an opportunity to appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant timely appealed the overpayment decisions, which were the first notice of disqualification. Therefore, the appeal shall be accepted as timely.

The next issue is whether claimant quit without good cause attributable to the employer. 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.

Iowa Admin. Code r. 871-24.25 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:

(23) The claimant left voluntarily due to family responsibilities or serious family needs.

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). Here, the claimant left his employment to provide care for his son with serious medical needs. While this is certainly a compelling personal reason to leave employment, it is not a reason that is fairly attributable to the employer.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Claimant notified the employer that he was ending his employment, submitted a formal resignation letter, and left his position. Though claimant's decision was for sincere personal grounds, the administrative law judge finds it was not for a good-cause reason attributable to the employer, and thus benefits must be withheld.

DECISION:

The December 4, 2020 (reference 01) unemployment insurance decision is affirmed. Claimant separated from employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

December 22, 2021
Decision Dated and Mailed

lj/lj