

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMES S RANEY

Claimant

APPEAL 22A-UI-04321-AR-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

J B HUNT TRANSPORT INC

Employer

OC: 12/26/21

Claimant: Appellant (4)

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the January 27, 2022, (reference 03) unemployment insurance decision that denied benefits based upon the determination that claimant voluntarily quit employment for personal reasons. The parties were properly notified of the hearing. A telephone hearing was held on March 21, 2022. The claimant, James S. Raney, participated personally. The employer, J B Hunt Transport, Inc., participated through Nicholas Schaefer. Department's Exhibit D-1 was admitted. The administrative law judge took official notice of the administrative record.

ISSUES:

Is the claimant's appeal timely?

Has the claimant requalified for benefits since separating from this employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time as a truck driver from May 17, 2021, until this employment ended on March 21, 2021, when he resigned. Claimant felt the employer misrepresented the duties of his position when he was being recruited and hired. He believed he would not need to climb in and out of trailers in the position. He realized during training that this would be one component of his duties. At the time, claimant was dealing with a significant impairment of his hip, which prevented him from climbing without the assistance of stairs. He spoke with his trainer and the manager about the issue. The trainer suggested they try a small stepladder to assist claimant. The manager worried that this created additional liabilities for the employer. Claimant elected to resign. The employer considered him eligible for rehire once he was able to perform the functions of the position.

Claimant's weekly benefit amount (WBA) for the claim year effective December 26, 2021, was \$452.00. Claimant's Iowa Workforce Development wage records show that he has earned at least ten times his WBA in insured wages since separating from this employer.

A disqualification decision was mailed to claimant's last known address of record on January 27, 2022. It stated that an appeal was due by February 7, 2022. Claimant received the decision on February 8, 2022. The same day, he filed his appeal.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer but has since requalified for benefits.

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

Iowa Code section 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. Iowa Dep't of Job Serv., 277 N.W.2d 877, 881 (Iowa 1979). Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. Iowa Dep't of Job Serv.*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

Here, the claimant did not have an opportunity to appeal the fact-finder's decision because the decision was not received in a timely fashion. 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 filed his appeal on the same day that he received it. Therefore, the appeal shall be accepted as timely.

The next issue is whether the claimant is eligible for benefits. 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.

Iowa Admin. Code r. 871—24.25(21) 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:

(21) The claimant left because of dissatisfaction with the work environment.

Iowa Code section 96.5(1)g provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). Claimant has not carried that burden here.

The claimant's separation from this employer is disqualifying. However, the administrative law judge further concludes from information contained in the administrative record that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer J B Hunt Transport, Inc. (account number 276791-000) shall not be charged.

DECISION:

The January 27, 2022, (reference 03) unemployment insurance decision is modified in favor of the claimant/appellant. The claimant's appeal is timely. The claimant quit without good cause attributable to the employer but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.



Alexis D. Rowe
Administrative Law Judge

March 30, 2022
Decision Dated and Mailed

ar/kmj