

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

HAYLEY K COOPER

Claimant

APPEAL NO. 13A-UI-10761-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

MANPOWER INTERNATIONAL INC

Employer

OC: 10/07/12

Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated November 29, 2012, reference 02, that concluded she voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on October 15, 2013. The parties were properly notified about the hearing. The claimant failed to participate in the hearing. Gail Gonyaw participated in the hearing on behalf of the employer. Exhibits A-1 were admitted into evidence at the hearing. Official notice is taken of the Agency's records regarding the claimant's unemployment insurance claim, which show the claimant would not have been monetarily eligible for benefit without the wages from the employer. If a party objects to taking official notice of these facts, the objection must be submitted in writing no later than seven days after the date of this decision.

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 employer is a staffing company that provides workers to client businesses on a temporary or indefinite basis. The claimant worked part-time, 20 hours per week for the employer as a receptionist from June 4, 2012, to September 5, 2013, on an assignment at Dresser-Rand.

The claimant verbally resigned to Gail Gonyaw stating that working 20 hours per week was too much for her physically. Continuing work was available for the claimant when she resigned.

The claimant filed a new claim for unemployment insurance benefits with an effective date of October 7, 2012. Her base period was from July 2011 through June 2012. The employer reported wages of \$600 for the claimant during the second quarter of 2012. The only other wages in her base period were \$1,251 in the first quarter 2012.

An unemployment insurance decision was mailed to the claimant's last-known address of record on November 29, 2012. The decision concluded she voluntarily quit employment without good cause attributable to the employer and stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by December 9, 2012.

The claimant never received the disqualification decision and was unaware of it until she received an overpayment decision on September 12, 2013. She filed a written appeal on September 20, 2013.

After the hearing had concluded, the claimant called the Appeals Section at 12:20 p.m. and admitted she had not followed the instructions on the hearing notice that required her to call in and provide her telephone number and was waiting for a call from someone with the Appeals Section.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 24.14(7)(b) provides:

If a party responds to the notice of hearing after the record has been closed and any party which has participated is no longer on the telephone line, the administrative law judge shall not take the evidence of the late party. Instead, the administrative law judge shall inquire as to why the party was late in responding to the notice of hearing. For good cause shown, the administrative law judge shall reopen the record and cause further notice of hearing to be issued to all parties of record. The record shall not be reopened if the administrative law judge does not find good cause for the party's late response to the notice of hearing.

The evidence fails to show good cause to reopen the hearing in this case. The claimant admitted she had not called and provided her phone number for the hearing as the hearing notice required her to do.

The next 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 appeal in this case should be deemed timely because the claimant never received the disqualification decision and appealed promptly after receiving notice of the decision. See Hendren v. IESC, 217 N.W.2d 255 (Iowa 1974); Smith v. IESC, 212 N.W.2d 471, 472 (Iowa 1973) (party must have a reasonable opportunity to file a timely appeal).

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer. Iowa Code § 96.5-1. The claimant quit because working 20 hours per week was too much for her physically. The evidence does not show any good cause attributable to the employer for quitting. The law provides that a claimant who quits part-time employment is eligible for benefits if she has sufficient wages from other employers to qualify. In this case, however, without the wages from the employer, the claimant would only have wages in one quarter—two quarters of wages are required for a claimant to be eligible for benefits under Iowa Code § 96.4-4.

DECISION:

The unemployment insurance decision dated November 29, 2012, reference 02, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until she has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/pjs