

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

RAELEEN C JONES
Claimant

DEE ZEE INC
Employer

APPEAL 17A-UI-02040-CL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 10/23/16
Claimant: Appellant (2)**

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.5(1) – Voluntary Quitting

STATEMENT OF THE CASE:

The claimant filed an appeal from the November 16, 2016, (reference 01) unemployment insurance decision that denied benefits based upon a separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on March 20, 2017. Claimant participated. Employer participated through human resource specialist Lacey Leichter. Claimant's Exhibit A was received.

ISSUES:

Is the appeal timely?

Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on August 17, 2015. Claimant is currently employed by employer as a full-time fork lift driver. On October 25 or 26, 2016, claimant complained to employer regarding her working conditions. Assuming the issue would not be resolved and she would resign, claimant filed a claim for unemployment insurance benefits. However, employer resolved the situation to claimant's satisfaction the day after she filed the complaint. Therefore, claimant did not resign or miss any work. After continuing her employment, claimant called the agency and explained she was no longer seeking benefits and asking for direction on how to proceed. Claimant was advised that she should simply take no action.

The November 16, 2016, (reference 01) unemployment insurance decision denying claimant benefits based on a voluntary resignation was mailed to the appellant's address of record on November 16, 2016. Claimant received the decision within the appeal period. However, claimant did not file an appeal as she was employed and no longer seeking benefits, and had been instructed by the agency to take no action going forward.

Claimant continued working for employer. Claimant was laid off during the one week ending December 31, 2016, due to a lack of work. Claimant filed an additional claim effective

December 18, 2016, and a weekly continued claim for the one week ending December 31, 2016. However, claimant did not receive benefits. Claimant contacted the agency and was instructed she did not receive benefits due to the November 16, 2016, (reference 01) decision. Therefore, claimant filed an appeal on February 21, 2017.

REASONING AND CONCLUSIONS OF LAW:

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:

The representative shall promptly examine the claim and any protest, take the initiative to ascertain relevant information concerning the claim, and, on the basis of the facts found by the representative, shall determine whether or not the claim is valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and its maximum duration, and whether any disqualification shall be imposed. . . . Unless 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.

The claimant's failure to file an appeal within the appeal period was solely because of incorrect information received from an IWD customer service advisor. She found out about the misinformation when she did not receive benefits for the one week ending December 31, 2017. This delay was prompted by and perpetuated by the agency. See, Iowa Admin. Code r. 871-24.35(2). Therefore, the appeal shall be accepted as timely.

The next issue is whether the claimant voluntarily resigned without good cause attributable to the employer. The administrative law judge concludes she did not. In fact, claimant did not resign at all and there was no separation from employment. Claimant continues to be employed by employer. Therefore, claimant is not disqualified from receiving benefits based on a separation from employment with this employer.

DECISION:

The November 16, 2016, (reference 01) unemployment insurance decision is reversed. The appeal is timely. Claimant was not separated from this employer. Benefits are allowed, provided she is otherwise eligible.

Christine A. Louis
Administrative Law Judge
Unemployment Insurance Appeals Bureau
1000 East Grand Avenue
Des Moines, Iowa 50319-0209
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Decision Dated and Mailed

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