

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**BROOKE E INTHASANE-ROBINSON**  
Claimant

**ADVANCE SERVICES INC**  
Employer

**APPEAL 16A-UI-08139-DL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/04/15  
Claimant: Appellant (1)**

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

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the June 27, 2016, (reference 05) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on August 11, 2016. Claimant participated. Employer participated through risk manager Melissa Lewien. Department's Exhibit D-1 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: A disqualification unemployment insurance decision was mailed to the claimant's post office box address of record on June 27, 2016. She did not receive the decision until also receiving the July 20, 2016, retroactive benefit denial decision on July 25, 2016. She appealed both on July 25, 2016.

Claimant was employed with ASI as a temporary full-time material handler assigned at Pioneer from November 2, 2015, through January 6, 2016. The assignment had not ended but she stopped reporting for work. ASI representative Tammy Hall attempted to reach her but was unable to communicate with her. She had moved and had no transportation. Continued work was available.

**REASONING AND CONCLUSIONS OF LAW:**

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

Iowa Code § 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. 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. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The ALJ is not convinced the claimant received the two decisions at the same time as the explanation seems unlikely given the mailing dates were three weeks apart. However, assuming arguendo she did not receive the decision until after the appeal deadline, no meaningful opportunity for appeal existed until receipt. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed the appeal immediately. Therefore, the appeal shall be accepted as timely so that the merits of the appealed issue may be addressed.

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was 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(1) and (2) 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:

(1) The claimant's lack of transportation to the work site unless the employer had agreed to furnish transportation.

(2) The claimant moved to a different locality.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). Claimant's leaving the employment to move and her lack of transportation renders the separation job abandonment without good cause attributable to the employer.

**DECISION:**

The June 27, 2016, (reference 05) unemployment insurance decision is affirmed. Claimant's appeal is timely. She voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

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