

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

NINA M YAHNKE

Claimant

APPEAL NO: 14A-UI-01727-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

QPS EMPLOYMENT GROUP INC

Employer

OC: 12/16/12

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25(2) – Move to a New Locality
Section 96.6-2 – Timeliness of Appeal
871 IAC 24.35(2) – Appeal Delay

STATEMENT OF THE CASE:

The claimant appealed a department decision dated June 28, 2013, reference 06, that held she voluntarily quit without good cause attributable to the employer on July 27, 2012, and benefits are denied. A telephone hearing was held on March 7, 2014. The claimant participated. Rhonda Hefter, HR, participated for the employer. Claimant Exhibit A was received as evidence.

ISSUES:

Whether claimant filed a timely appeal.

Whether claimant voluntarily quit with good cause attributable to the employer.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record finds: The department mailed the decision to claimant's address of record on June 28, 2013 with an appeal deadline date of July 8. Claimant had moved to Albert Lea, Minnesota and did not receive the decision. The claimant submitted an appeal on February 12, 2014 after receiving a department February 3, 2014 overpayment decision.

Claimant voluntarily quit at QPS on July 27, 2012 to get married and move to move out of state.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 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.

871 IAC 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 department that the delay in submission was due to department error or misinformation or to delay or other action of the United States postal service or its successor.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

b. The department shall designate personnel who are to decide whether an extension of time shall be granted.

c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the department after considering the circumstances in the case.

d. If submission is not considered timely, although the interested party contends that the delay was due to department error or misinformation or delay or other action of the United States postal service or its successor, the department shall issue an appealable decision to the interested party.

The administrative law judge concludes claimant did file a timely appeal as the delay was due to the department's failure to timely issue a disqualification decision and transmit it to claimant before she had moved. Claimant had no expectation of receiving the employment separation decision date June 28, 2013 that was almost a year from her July 27, 2012 leaving employment.

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.

871 IAC 24.25(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:

(2) The claimant moved to a different locality.

The administrative law judge further concludes claimant voluntarily quit without good cause attributable to the employer on July 27, 2012 to move out of state.

While claimant left employment for a good personal reason, it is not a good cause attributable to her employer.

DECISION:

The department decision dated June 28, 2013, reference 06, is affirmed. The claimant filed a timely appeal. Claimant voluntarily quit without good cause on July 27, 2012. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times her weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/css