

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

LARRY D CLOYED

Claimant

APPEAL NO. 14A-UI-01722-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

TEAM STAFFING SOLUTIONS INC

Employer

OC: 12/29/13

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 January 24, 2014, reference 01, that concluded he voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on March 7, 2014. The parties were properly notified about the hearing. The claimant participated in the hearing. Sarah Fiedler participated in the hearing on behalf of the employer. Exhibits A-1 was admitted into evidence at the hearing.

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 full time for the employer as a general laborer from July 9, 2013, to November 5, 2013, on an assignment with Siemens Company. When he was hired, he was given a statement to read and sign that said he would be considered to have voluntarily quit employment if he did not contact the employer within three working days after the completion of a job assignment and request a new assignment.

Siemens Company management requested that the claimant be removed from his assignment due to a verbal confrontation he had with an employee there. The onsite manager left a message for the claimant that he was not to return to Siemens.

The claimant turned in his time sheet to the onsite manager at the end of the week. He did not ask about getting another assignment. He came into the employer's office in Fort Madison on November 12 to get copies of check stubs but did ask if the employer had any other work for him.

An unemployment insurance decision was mailed to the claimant's address of record on January 24, 2014. The decision concluded the claimant had 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 February 3, 2014.

The claimant did not receive the decision within the ten-day period for appealing the decision. He received it on February 13, because he had moved and the decision was sent to his old address. He had put in a change of address with the post office, but the decision did not reach him until after the deadline for appeal. He filed a written appeal immediately on February 14, 2014.

REASONING AND CONCLUSIONS OF LAW:

The 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 Iowa Supreme Court has ruled that appeals from unemployment insurance decisions must be filed within the time limit set by statute and the administrative law judge has no authority to review a decision if a timely appeal is not filed. Franklin v. IDJS, 277 N.W.2d 877, 881 (Iowa 1979); Beardslee v. IDJS, 276 N.W.2d 373 (Iowa 1979). In this case, the claimant's appeal was filed after the deadline for appealing expired but it was due to a delay or other action of the United States Postal Service, which under 871 IAC 24.35(2) excuse the delay in filing an appeal. The claimant acted promptly after receiving actual notice of the decision.

Iowa Code § 96.5-1-j provides that individuals employed by a temporary agency must contact their employer within three working days after the completion of a work assignment and seek a new assignment or they will be considered to have voluntarily quit employment without good cause attributable to the employer, provided that the employer has given them a statement to read and sign that advises them of these requirements.

The claimant may have contacted the on-site supervisor within three days after the assignment was completed, but he did not seek a new assignment. Under the statute, he voluntarily quit employment without good cause attributable to the employer.

DECISION:

The unemployment insurance decision dated January 24, 2014, reference 01, is affirmed. The claimant is disqualified from receiving unemployment insurance benefits until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css