

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JEREYL N KNERR**  
Claimant

**APPEAL NO. 12A-UI-00716-LT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**A+ LAWN & LANDSCAPING INC**  
Employer

**OC: 06/19/11  
Claimant: Appellant (1)**

Iowa Code § 96.5(2)a – Discharge for Misconduct/Requalification  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant filed an appeal from the July 19, 2011 (reference 01) decision that denied benefits. After due notice was issued, a hearing was scheduled to be held by telephone conference call on February 17, 2012. Claimant and employer responded to the hearing notice instructions but no hearing was held as there was sufficient evidence in the administrative record to resolve the matter without testimony.

**ISSUE:**

The issue is whether claimant's appeal is timely and if he has requalified for benefits.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: On January 9, 2012 Claimstaker 1652 advised claimant he must appeal the July 19, 2011 (reference 01) disqualification decision regarding A+ Lawn (275890) in order to claim benefits during a seasonal layoff from Ted Lare Design (306511). He did so that day and the appeal was not received in the Appeals Bureau until January 20, 2012. Before claimant reopened the June 19, 2011 claim on December 4, 2011 he requalified by earning ten times his weekly benefit amount in insured wages with Lare in the third quarter 2011. The day after claimant filed his appeal, Deputy 41 issued a requalification decision dated January 11, 2012 (reference 03).

**REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow the administrative law judge concludes claimant's appeal is untimely but he has requalified for benefits since the separation and before the current claim year.

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.

Iowa Code § 96.5-1-g 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. But the individual shall not be disqualified if the department finds that:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

Claimant has requalified for benefits since the separation from A+ Lawn and should not have been required to file an appeal to officially record requalification, as evidenced by the January 11, 2012 (reference 03) requalification decision. Accordingly, benefits are allowed and the account of the employer (account number 275890) shall not be charged.

**DECISION:**

The July 19, 2011 (reference 01) decision is affirmed. The appeal in this case was not timely, but the claimant has requalified for benefits since the separation.

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Dévon M. Lewis  
Administrative Law Judge

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Decision Dated and Mailed

dml/css