

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MARK ANTHONY D SAYLES**  
Claimant

**APPEAL 20A-UI-13435-CL-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**SOUTHTOWN LOUNGE**  
Employer

**OC: 03/15/20  
Claimant: Appellant (1)**

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Iowa Code § 96.6(2) - Timeliness of Appeal  
Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.5(3)a – Failure to Accept Work  
Iowa Code § 96.4(3) – Able and Available

**STATEMENT OF THE CASE:**

On October 28, 2020, the claimant filed an appeal from the October 12, 2020, (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on December 23, 2020. Claimant participated. Employer participated through Deb Youngblut. Department Exhibit 1 was received.

**ISSUES:**

Is the appeal timely?  
Did claimant voluntarily quit the employment with good cause attributable to employer?  
Did the claimant decline a suitable offer of work?  
Is the claimant able to and available for work?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: On October 12, 2020, Iowa Workforce Development mailed a reference 02 unemployment insurance decision to claimant's last address of record. Claimant did not receive the decision. On October 23, 2020, claimant called Iowa Workforce Development to ask why he stopped receiving benefits. A representative informed claimant of the decision denying him benefits. Claimant filed an appeal on October 28, 2020.

Claimant began working for employer in November 2017. Claimant last worked as a full-time cook. Claimant was separated from employment on March 18, 2020, when he resigned.

In March 2020, the United States declared a public health emergency due to the COVID 19 pandemic. On March 17, 2020, Iowa Governor Kim Reynolds issued a proclamation suspending in-person dining in the state of Iowa. Employer initially closed.

On March 18, 2020, claimant informed owner Deb Youngblut that he would not be returning to work after the shutdown as he was pursuing his commercial driver's license.

That weekend, employer opened back up to offer take-out food to its guests. When claimant came to pick up his paycheck, Youngblut asked claimant to return to work. Claimant declined.

### **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 did not have an opportunity to timely appeal the fact-finder's decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed an appeal within a reasonable period of time after discovering the disqualification. Therefore, the appeal shall be accepted as timely.

The next issue is whether claimant was separated from employment with good cause attributable to employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

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.

Here, claimant resigned to pursue other interests. Continuing work was available for claimant. Although claimant denies resigning, I find employer's version of the facts to be more plausible and logical given the circumstances the parties were in.

Claimant has not established he resigned for a good cause reason attributable to employer. Therefore he is disqualified from receiving regular unemployment insurance benefits.

**DECISION:**

The October 12, 2020, (reference 02) unemployment insurance decision is affirmed. The appeal is timely. Claimant voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



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Christine A. Louis  
Administrative Law Judge  
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January 13, 2021  
Decision Dated and Mailed

cal/mh

*Note to Claimant:* This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found at <https://www.iowaworkforcedevelopment.gov/pua-information>.