

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

YASMINE HICKS
Claimant

SLB OF IOWA LC
Employer

APPEAL 20A-UI-06771-J1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/29/20
Claimant: APPELLANT (1)

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

STATEMENT OF THE CASE:

On June 23, 2020, the claimant filed an appeal from the June 3, 2020, (reference 02) unemployment insurance decision that denied benefits based on a voluntary quit not attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on July 29, 2020. Claimant participated. Employer participated through Karen Beard Human Resources Manager. Exhibit A was admitted into the record.

ISSUES:

Did claimant file a timely appeal?
Did claimant quit without good cause?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for employer on September 6, 2019. Claimant last worked as a full-time Associate/Cashier. Claimant was separated from employment on March 17, 2020. Claimant submitted her resignation on March 4, 2020 with an effective date of March 17, 2020. (Ex.A, p. 2) Claimant's resignation letter stated she was resigning due to moving out of state and she "feel [{sic} a little harassed." (Ex. A, p. 2) Claimant's last day of work was March 12, 2020. Claimant called her supervisor and informed her supervisor that she was not able to work on March 13, 16 and 17, 2020.

Claimant testified that she felt that she was not treated fairly and her manager would not respond to her concerns about the transportation problems and how she was written up and also a false customer complaint.

Claimant credibly testified that she never received the June 3, 2020 Fact Finding Decision. Claimant called this agency and appealed when she was informed she was denied benefits.

REASONING AND CONCLUSIONS OF LAW:

The first issue to determine is whether claimant filed a timely appeal.

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 issued, files an appeal from the decision, the decision is final and benefits shall be paid or denied in accordance with the decision.

The law provides that all interested parties shall be promptly notified about an individual filing a claim. The parties have ten days from the date of mailing the notice of claim to protest payment of benefits to the claimant. Iowa Code § 96.6(2). Another portion of Iowa Code § 96.6(2) dealing with timeliness of an appeal from a representative's decision states an appeal must be filed within ten days after notification of that decision was mailed. In addressing an issue of timeliness of an appeal under that portion of this Code section, the Iowa Supreme Court has held that this statute clearly limits the time to do so, and compliance with the appeal notice provision is mandatory and jurisdictional. *Beardslee v. Iowa Dep't of Job Serv.*, 276 N.W.2d 373 (Iowa 1979). The reasoning and holding of the *Beardslee* court is considered controlling on the portion of Iowa Code § 96.6(2) that deals with the time limit to file a protest after the notice of claim has been mailed to the claimant. The claimant did not have an opportunity to protest the notice of claim because the notice was not received in a timely fashion. Without timely notice of a disqualification, no meaningful opportunity for appeal exists. *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed the appeal when she contacted this agency and filed an appeal when she learned she had been denied. Therefore, the appeal shall be accepted as timely.

The next issue to determine is whether claimant had good cause attributable to the employer for quitting her employment. I find that claimant has not proven good cause attributable to her employer and is disqualified from unemployment.

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.

Iowa Admin. Code r. 871-24.25(21) and (22) 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:

- (21) The claimant left because of dissatisfaction with the work environment.
- (22) The claimant left because of a personality conflict with the supervisor.

The evidence shows that claimant was dissatisfied with her employer and unhappy that her supervisors would not respond to her emails. Claimant felt she was being treated unfairly by the employer. The evidence does not support a finding that the working conditions were intolerable or so detrimental that claimant's quit could be attributable to the employer. Claimant was dissatisfied with how she was treated. I find claimant quit her employment without good cause attributable to her employer.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The June 3, 2020, (reference 02) unemployment insurance decision is affirmed. Benefits are withheld until such time as claimant has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though claimant is not eligible for regular unemployment insurance benefits under state law, claimant may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he or she is eligible for such compensation for the week claimed. This decision does not address when claimant is eligible for PUA. For a decision on such eligibility, claimant must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. 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.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information about how to apply for PUA, go to:

<https://www.iowaworkforcedevelopment.gov/pua-informatio>



James F. Elliott
Administrative Law Judge

August 4, 2020
Decision Dated and Mailed

je/scn