

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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

CHARLES W JONES

Claimant

APPEAL NO: 18A-UI-02844-JE-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

EXPRESS SERVICES INC

Employer

OC: 12/24/17

Claimant: Appellant (2)

Section 96 5-1 – Voluntary Leaving – Layoff

Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant filed a timely appeal from the January 30, 2018, reference 01, decision that denied benefits. After due notice was issued, a hearing was held by telephone conference call before Administrative Law Judge Julie Elder on March 28, 2018. The claimant participated in the hearing. The employer chose not to participate in the hearing. Department's Exhibit D-1 was admitted into evidence.

ISSUE:

The issues are whether the claimant's appeal is timely and whether he was laid off.

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last known address of record on January 30, 2018. The claimant received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by February 9, 2018. The appeal was not filed until March 2, 2018, which is after the date noticed on the disqualification decision. The claimant also had a claim for retroactive benefits. When he went to the Department to appeal both decisions February 5, 2018, there was a misunderstanding and the only appeal filed was for the retroactive benefits decision. Because the claimant intended to appeal both decisions and attempted to do so within the time allowed, the administrative law judge finds the claimant's appeal is timely.

The claimant was employed as a full-time exterminator for Gary's Mole Control from July 1, 2017 to December 23, 2017. He was laid off due to the weather.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant was laid off due to a lack of work.

Iowa Code § 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.

The claimant was laid off because the ground froze and the employer could not perform its duties under those conditions. Therefore, the separation was attributable to a lack of work by the employer. Benefits are allowed.

DECISION:

The January 30, 2018, reference 01, decision is reversed. The claimant's appeal was timely. The claimant was laid off due to a lack of work. Benefits are allowed, provided the claimant is otherwise eligible.

Julie Elder
Administrative Law Judge

Decision Dated and Mailed

je/scn