

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**LOGAN B LAFAUCE**  
Claimant

**IOWA AVENUE LLC**  
Employer

**APPEAL 21A-UI-04056-LJ-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

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

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Iowa Code § 96.5(1) – Voluntary Quitting of Employment  
Iowa Code § 96.6(2) – Timeliness of Appeal

**STATEMENT OF THE CASE:**

On January 25, 2021, the claimant, Logan B. LaFauce, filed an appeal from the July 15, 2020 (reference 02) unemployment insurance decision that denied benefits based upon a determination that claimant voluntarily quit his employment without good cause attributable to the employer. The parties were properly notified of the hearing. A telephonic hearing was held on Friday, April 2, 2021. Appeal Numbers 21A-UI-04056-LJ-T and 21A-UI-04057-LJ-T were heard together and created one record. The claimant, Logan B. LaFauce, participated, and claimant's mother Theresa Dunnington observed the hearing. The employer, Iowa Avenue, L.L.C., participated through Cory Kent, Owner. No exhibits were offered or admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Did claimant Logan LaFauce file a timely appeal?

Did claimant Logan LaFauce quit his employment with employer Iowa Avenue L.L.C. with good cause attributable to the employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant was employed full time, most recently as a server, from April 1, 2019 until January 20, 2020, when he quit to move to Minnesota.

In early January, claimant informed Kent and other management that he would be leaving his position in order to move to Minnesota. Claimant planned to move in order to attend community college in Minneapolis, and he intended to get a job at a restaurant in the Minneapolis area. Claimant submitted a two-week notice, and he was allowed to work out his full notice period. Claimant was not at any risk of being discharged had he not quit his job.

A disqualification decision was mailed to claimant's last known address of record on July 15, 2020. Claimant is not sure whether he received that decision. The first sentence of the decision states, "If this decision denies benefits and is not reversed on appeal, it may result in

an overpayment which you will be required to repay.” The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by July 25, 2020. The appeal was not filed until January 25, 2021, which is after the date noticed on the disqualification decision. Claimant had stopped filing for benefits prior to the time the decision was issued, as he had become re-employed. He appealed the overpayment decision that was issued immediately upon receipt.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit his employment without good cause attributable to the employer. Benefits are withheld.

The first issue is whether claimant filed a timely appeal. The administrative law judge determines he did. Iowa Code § 96.6(2) provides, in pertinent part: “[u]nless 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.”

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). 00194Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982).

Here, claimant provided credible testimony that he is not certain the disqualification decision was 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 timely appealed the overpayment decision, which was the first notice of disqualification. Therefore, the appeal shall be accepted as timely.

The next issue is whether claimant's separation is disqualifying. Iowa Code §96.5(1) 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.

Iowa Admin. Code r. 871-24.25 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: ...

(2) The claimant moved to a different locality.

(3) The claimant left to seek other employment but did not secure employment.

...

(26) The claimant left to go to school.

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). Here, claimant had compelling personal reasons to leave his position with the employer. He planned to enroll in an out-of-state community college and secure employment in that area. While this is certainly good cause, it is not good cause *attributable to the employer* for unemployment insurance purposes.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). Claimant gave the employer his notice, he worked through his notice period, and then he left his employment. The administrative law judge is sympathetic to claimant's circumstances. However, the law dictates the outcome in this case: claimant quit his employment without good cause attributable to the employer, and benefits must be withheld.

**DECISION:**

The July 15, 2020 (reference 02) unemployment insurance decision is affirmed. Claimant separated from 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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Elizabeth A. Johnson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

April 6, 2021  
Decision Dated and Mailed

lj/scn