

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RICK P KNUTSON

Claimant

APPEAL NO: 14A-UI-06348-ST

**ADMINISTRATIVE LAW JUDGE
DECISION**

MUNICIPAL PIPE TOOL COMPANY LLC

Employer

OC: 04/13/14

Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
871 IAC 24.25 – Dissatisfaction with Wages
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed a department decision dated May 16, 2014, reference 01, that held he voluntarily quit without good cause attributable to his employer on May 29, 2014, and benefits are denied. A telephone hearing was held on July 31, 2014. The claimant participated. Brian Latusick, HR/Safety Director, participated for the employer. Claimant Exhibit A was received as evidence.

ISSUE:

Whether the claimant filed a timely appeal.

FINDINGS OF FACT:

The administrative law judge having heard the witness testimony and having considered the evidence in the record, finds: The department mailed the decision to claimant's address of record on May 16, 2014 with an appeal deadline date of May 26 (Memorial Day) that is extended to the next business day May 27. The claimant submitted an appeal faxed on June 17, 2014 that was received June 19.

Claimant claimed unemployment benefits for a three-week period ending May 3, 2014 and he took a job in Oklahoma. He had his mail held at the post office box until he could return to get home to get it. He did not get his mail until June 16.

Claimant began work on October 12, 2012 as a full-time driver. He was offered and accepted a \$14 an hour pay rate. Claimant was given a fifty cent raise to \$14.50 an hour on February 7, 2013, and forty-four cent raise (3%) at the annual review to \$14.94.

Claimant refused a delivery on May 28 and sent a text message to the COO he was quitting because of wages. Claimant believed he was promised a \$3 an hour raise after 90 days and quit his job because he did not get it. Claimant knew that his employment was not subject to any contract agreement.

REASONING AND CONCLUSIONS OF LAW:

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 administrative law judge concludes claimant affected a timely appeal as he was not aware of the department decision until he received it on June 16.

The claimant did not have an opportunity to file a more timely appeal because his mail was being held due to an out-of-state job. Claimant offered a good cause for the appeal delay.

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(13) 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 § 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 § 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:

(13) The claimant left because of dissatisfaction with the wages but knew the rate of pay when hired.

The administrative law judge further concludes claimant voluntarily quit without good cause attributable to the employer on May 29, 2013 due to dissatisfaction with his wages.

Claimant admits he had no contract with the employer for a \$3 an hour raise after 90 days. He accepted a fifty cent increase on February 7, 2013 and continued working without objection that means he acquiesced to what he states was an anticipated \$3 pay increase.

DECISION:

The department decision dated May 16, 2014, reference 01, is affirmed. The claimant filed a timely appeal, and the department decision the claimant voluntarily quit without good cause on May 29, 2013 remains in force and effect. Benefits are denied until the claimant requalifies by working in and being paid wages for insured work equal to ten times his weekly benefit amount, provided the claimant is otherwise eligible.

Randy L. Stephenson
Administrative Law Judge

Decision Dated and Mailed

rls/pjs