

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**HANNAH M ERLBACHER**  
Claimant

**THE UNIVERSITY OF IOWA**  
Employer

**APPEAL 20A-UI-14942-CL-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 03/22/20**  
**Claimant: Appellant (4)**

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

**STATEMENT OF THE CASE:**

On November 6, 2020, the claimant filed an appeal from the July 1, 2020, (reference 02) unemployment insurance decision that denied benefits based on claimant's separation from employment. The parties were properly notified about the hearing. A telephone hearing was held on January 20, 2021. Claimant participated. Employer did not register for the hearing and did not participate. Claimant's Exhibits A and B were entered into the record. Department Exhibit 1 was entered into the record.

**ISSUES:**

Is the appeal timely?  
Did claimant voluntarily quit the employment with good cause attributable to employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: On July 1, 2020, Iowa Workforce Development (IWD) mailed reference 01 and 02 unemployment insurance decisions to claimant's last address of record. The decisions denied regular unemployment insurance benefits. Claimant did not receive the decisions.

On October 29, 2020, IWD mailed a reference 03 decision to claimant. The decision found claimant overpaid unemployment insurance benefits. Claimant timely appealed the decision.

Claimant began employment with employer in fall 2019 as a part-time tutor. During spring 2020, claimant and employer agreed claimant would work four hours per week.

In March 2020, the United States declared a public health emergency due to the COVID 19 pandemic. Claimant continued to work for this employer, but also had a second part-time job with Pals for Paws. Claimant had reduced hours and was eventually laid off with Pals for Paws. Claimant is monetarily eligible for unemployment insurance benefits based on her wages earned with Pals for Paws.

Claimant let employer know she would not be staying on for the summer as she was beginning graduate school in mid-August. Claimant's last day working for employer was May 7, 2020.

### **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 timely appealed the overpayment decision, which was the first notice of disqualification. The appeal is timely.

The next issue is whether claimant's separation from employment on May 7, 2020, disqualifies her from receiving unemployment insurance benefits after that date.

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. 871-24.27 provides:

Voluntary quit of part-time employment and requalification. An individual who voluntarily quits without good cause part-time employment and has not requalified for benefits following the voluntary quit of part-time employment, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. The individual and the part-time employer which was voluntarily quit shall be notified on Form 655323, Unemployment Insurance Decision, that benefit payments shall not be made which are based on the wages paid by the part-time employer and benefit charges shall not be assessed against the part-time employer's account; however, once the individual has met the requalification requirements following the voluntary quit without good cause of the part-time employer, the wages paid in the part-time employment shall be available for benefit payment purposes. For benefit charging purposes and as determined by the

applicable requalification requirements, the wages paid by the part-time employer shall be transferred to the balancing account.

Iowa Code section 96.5(12) provides:

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

12. *Supplemental part-time employment.* If the department finds that an individual is disqualified for benefits under subsection 1 or 2 based on the nature of the individual's separation from supplemental part-time employment, all wages paid by the supplemental part-time employer to that individual in any quarter which are chargeable following a disqualifying separation under subsection 1 or 2 shall not be considered wages credited to the individual until such time as the individual meets the conditions of requalification as provided for in this chapter, or until the period of disqualification provided for in this chapter has elapsed.

Inasmuch as claimant resigned because she was going to graduate school at the end of the summer, the separation is disqualifying. The claimant has not requalified for benefits since the separation but appears to be otherwise monetarily eligible according to base period wages. Thus, she may be eligible for benefits based upon those other wages. The claimant's maximum and weekly benefit amounts will be redetermined until requalification. This may result in an overpayment of benefits.

**DECISION:**

The July 1, 2020, (reference 02), unemployment insurance decision is modified in favor of the appellant. The appeal is timely. The claimant voluntarily left the employment without good cause attributable to the employer and has not requalified for benefits but appears to be otherwise monetarily eligible. Benefits are allowed, provided she is otherwise eligible. The account of this part-time employer (068884) shall not be charged.



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Christine A. Louis  
Administrative Law Judge  
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February 5, 2021  
Decision Dated and Mailed

cal/scn