

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SUE E STOLBA
Claimant

APPEAL 17A-UI-01324-DL-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

ROBERT HALF CORPORATION
Employer

**OC: 12/20/15
Claimant: Appellant (1)**

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

STATEMENT OF THE CASE:

The claimant filed an appeal from the December 16, 2016, (reference 05) unemployment insurance decision that denied benefits based upon voluntarily quitting the employment. The parties were properly notified about the hearing. A telephone hearing was held on February 27, 2017. Claimant participated. Employer participated through branch manager Gina Carson. The administrative law judge took official notice of the administrative record, including fact-finding documents. Department's Exhibit D-1 was received.

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: A disqualification unemployment insurance decision was mailed to the claimant's address of record on December 16, 2016. She filed an appeal online but for an unknown reason either the appeal was not accepted or it was not received. She timely appealed the overpayment decision of January 24, 2017.

Claimant was employed as a temporary full-time senior accountant assigned at TransAmerica from April 4 through April 14, 2016. The assignment would have ended in late May 2016, had claimant continued working. On April 6, claimant told Carson she did not like the assignment and did not believe it was a good fit for her. She thought the work was not fast enough, but had not been given any criticism about her work performance. Carson told claimant if she wanted to exit the assignment she would have to give proper notice so Robert Half could find a replacement for TransAmerica. Claimant notified Carson she quit on April 14, 2016, but did not provide notice even though Carson told her there was more work available.

Claimant did not seek another assignment with Robert Half because she wanted full-time permanent employment. Since that time, claimant worked for two weeks ending October 19, 2016, with Windstream Corp. but has not requalified.

REASONING AND CONCLUSIONS OF LAW:

The first issue to be considered in this appeal is whether claimant's appeal is timely. The administrative law judge determines it is.

Iowa Code section 96.6(2) provides:

2. *Initial determination.* A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. 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. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 10, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant filed an appeal in a timely manner but it was not received. Claimant filed a timely appeal from the overpayment decision issued more than a month later. Therefore, the appeal shall be accepted as timely.

For the reasons that follow, the administrative law judge concludes claimant's separation from the employment was without good cause attributable to the employer.

Iowa Code section 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, in pertinent part:

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:

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

(27) The claimant left rather than perform the assigned work as instructed.

(33) The claimant left because such claimant felt that the job performance was not to the satisfaction of the employer; provided, the employer had not requested the claimant to leave and continued work was available.

While the employer has the burden to establish the separation was a voluntary quitting of employment rather than a discharge, 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).

The claimant's decision to quit because she did not like the job or thought she was not suited to it was not for a good cause reason attributable to the employer.

DECISION:

The December 16, 2016, (reference 05) unemployment insurance decision is affirmed. Claimant's appeal is timely. She voluntarily left the employment without good cause attributable to the employer. Benefits are withheld until such time as she has worked in and been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible.

Dévon M. Lewis
Administrative Law Judge

Decision Dated and Mailed

dml/rvs