

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SAMANTHA M TAYLOR**  
Claimant

**BEATON INC**  
Employer

**APPEAL 21A-UI-00087-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 03/22/20**  
**Claimant: Appellant (2)**

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

**STATEMENT OF THE CASE:**

On December 1, 2020, the claimant filed an appeal from the October 1, 2020, (reference 01) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on February 2, 2021. Claimant participated. Employer did not register for the hearing and did not participate. Department Exhibit 1 was admitted into 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 October 1, 2020, Iowa Workforce Development (IWD) mailed a reference 01 unemployment insurance decision to claimant's last address of record. The decision warned that an appeal was due by October 11, 2020. Claimant filed an appeal online on October 11, 2020, but it apparently did not successfully transmit because claimant did not receive a confirmation email. Claimant did not realize her appeal did not transmit. By December 1, 2020, claimant still had not received a hearing notice for her appeal hearing. Claimant contacted Iowa Workforce Development and was informed that if she did not have a confirmation email, her appeal did not go through. Claimant submitted a new appeal by fax the same day and it was successful.

Employer is a Burger King restaurant. Claimant began working for employer in September 2019. Claimant last worked as a part-time crew member. Claimant was separated from employment on April 23, 2020, when she resigned.

In March 2020, the United States declared a public health emergency due to the COVID 19 pandemic. Employer announced it was going to raise its employees pay by \$2.00 for "essential worker" pay. Employer also began requiring its employees to wear face masks and gloves to prevent spread of the disease. Many of claimant's co-workers did not wear their masks and

gloves. Claimant complained to her managers. Claimant's managers and co-workers called her a "grandma who always complains" and still did not consistently wear their masks and gloves. Claimant never got her extra \$2.00 in pay and decided the risks she was taking were not worth it. Claimant resigned.

#### **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 appellant filed an appeal in a timely manner but it was not received. Immediately upon receipt of information to that effect, a second appeal was filed. Therefore, the appeal shall be accepted as timely.

The administrative law judge further concludes claimant resigned for a good cause reason attributable to employer.

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. 871-24.26(2) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(2) The claimant left due to unsafe working conditions.

In this case, claimant resigned after her employer would not enforce its own mask mandate and mocked her age when she complained about the issue. Employer also failed to pay the "essential worker" hourly differential it promised. No reasonable person would have continued on in this employment. Claimant established she resigned for a good cause reason attributable to employer.

**DECISION:**

The October 1, 2020, (reference 01) unemployment insurance decision is reversed. The appeal is timely. Claimant resigned for a good cause reason attributable to employer. Benefits are allowed, provided claimant is otherwise eligible.



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February 16, 2021 \_\_\_\_\_  
Decision Dated and Mailed

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