

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

MATRIKA L WILLIAMS
Claimant

APPEAL NO. 13A-UI-12875-JTT

**AMENDED
ADMINISTRATIVE LAW JUDGE
DECISION**

RAVI INC
Employer

**OC: 10/13/13
Claimant: Respondent (1)**

Iowa Code Section 96.5(1) – Voluntary Quit
871 – IAC 24.26(12) – Employer Termination of Employment Prior to Effective Quit Date
871 IAC 26.8(5) – Decision on the Record

STATEMENT OF THE CASE:

The employer appealed from an unemployment insurance decision dated November 7, 2013, reference 01, that disqualified the claimant for benefits effective October 21, 2013 based on a voluntary quit without good cause attributable to the employer, but that allowed benefits during the notice period of October 13-19, 2013 based on the employer's decision to prematurely end the employment before the effective quit date. A telephone hearing was scheduled for December 10, 2013. The employer did not respond to the hearing notice instructions and did not participate in the hearing. The claimant also did not respond to the hearing notice instructions and did not participate in the hearing. Based on the employer/appellant's failure to participate in the hearing, the administrative file, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision. The administrative law judge hereby takes official notice of the agency's administrative record (APLT and Clear2There Hearing Control screen) documenting the employer's failure to provide a telephone number for the hearing.

This decision is amended only to reflect the claimant's late call for the hearing. Ms. Williams contacted the Appeals Section at 1:04 p.m. on December 10, 2013 in reference to the hearing set for 10:00 a.m. on that same day. The administrative law judge returned the claimant's call at 2:23 p.m. on December 10, 2013. At that time, the claimant advised that she had received the hearing notice within a few days of its being mailed to her on November 25, 2013. The claimant further advised that she had not read the hearing notice correctly and for that reason had not provided a telephone number for the hearing in response to the hearing notice instructions. The claimant did not provide good cause to reopen the record. The administrative law judge advised the claimant of her appeal rights.

ISSUES:

Whether the claimant was disqualified for benefits effective October 21, 2013 based on a voluntary quit without good cause attributable to the employer that was to be effective October 21, 2013.

Whether the claimant is eligible for, and whether the employer's account may be charged for benefits, for the week ending October 19, 2013, based on the employer's decision to end the employment prior to the effective quit date.

FINDINGS OF FACT:

The parties were properly notified of the December 10, 2013 appeal hearing by notice mailed on November 25, 2013. The appellant, Ravi, Inc., failed to provide a telephone number at which a representative could be reached for the hearing and did not participate in the hearing or request a postponement of the hearing as required by the hearing notice. There is no evidence the hearing notice was returned by the Postal Service as undeliverable for any reason.

The administrative law judge has conducted a careful review of the administrative file to determine whether the unemployment insurance decision should be affirmed.

REASONING AND CONCLUSIONS OF LAW:

871 IAC 26.8(3), (4) and (5) provide:

Withdrawals and postponements.

(3) If, due to emergency or other good cause, a party, having received due notice, is unable to attend a hearing or request postponement within the prescribed time, the presiding officer may, if no decision has been issued, reopen the record and, with notice to all parties, schedule another hearing. If a decision has been issued, the decision may be vacated upon the presiding officer's own motion or at the request of a party within 15 days after the mailing date of the decision and in the absence of an appeal to the employment appeal board of the department of inspections and appeals. If a decision is vacated, notice shall be given to all parties of a new hearing to be held and decided by another presiding officer. Once a decision has become final as provided by statute, the presiding officer has no jurisdiction to reopen the record or vacate the decision.

(4) A request to reopen a record or vacate a decision may be heard ex parte by the presiding officer. The granting or denial of such a request may be used as a grounds for appeal to the employment appeal board of the department of inspections and appeals upon the issuance of the presiding officer's final decision in the case.

(5) If good cause for postponement or reopening has not been shown, the presiding officer shall make a decision based upon whatever evidence is properly in the record.

Iowa Administrative Code rule 871 – 24.26(12) provides as follows:

24.26(12) When an employee gives notice of intent to resign at a future date, it is a quit issue on that future date. Should the employer terminate the employee immediately, such employee shall be eligible for benefits for the period between the actual separation and the future quit date given by the claimant.

The administrative law judge has carefully reviewed evidence in the record and concludes that the unemployment insurance decision previously entered in this case is correct and should be affirmed.

Pursuant to the rule, the appellant must make a written request to the administrative law judge that the hearing be reopened within 15 days after the mailing date of this decision. The written request should be mailed to the administrative law judge at the address listed at the beginning of this decision and must explain the emergency or other good cause that prevented the appellant from participating in the hearing at its scheduled time.

DECISION:

The Agency representative's November 7, 2013, reference 01, decision is affirmed. The decision that disqualified the claimant for benefits effective October 21, 2013 based on a voluntary quit without good cause attributable, but that allowed benefits during the notice period of October 13-19, 2013 based on the employer's decision to prematurely end the employment before the effective quit date remains in effect. The employer's account may be charged to benefits paid to the claimant for the week ending October 19, 2013, but will only be charged for benefits for that one week. This decision will become final unless a written request establishing good cause to reopen the record is made to the administrative law judge within 15 days of the date of this decision.

James E. Timberland
Administrative Law Judge

Decision Dated and Mailed

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