

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MEILIA J WIDJAJA**  
Claimant

**APPEAL NO. 12A-UI-13035-HT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**PANDA EXPRESS INC**  
Employer

**OC: 12/11/11**  
**Claimant: Respondent (2-R)**

Section 96.5(1) – Quit  
Section 96.6(2) – Timeliness

**STATEMENT OF THE CASE:**

The employer, Panda Express, filed an appeal from a decision dated October 12, 2012, reference 01. The decision allowed benefits to the claimant, Meilia Widjaja. After due notice was issued, a hearing was held by telephone conference call on December 3, 2012. The claimant did not provide a telephone number where she could be reached and did not participate. . The employer participated by Hearing Coordinator Randie Malley.

**ISSUE:**

The issue is whether the employer’s protest was timely and whether the claimant quit work with good cause attributable to the employer.

**FINDINGS OF FACT:**

Meilia Widjaja filed a claim for unemployment benefits with an effective date of December 11, 2011. A notice of claim was mailed to the employer in care of TALX at P.O. Box 283 in Saint Louis, Missouri. Employment Tax Services had notified Iowa Workforce Development in July 2011 it was the new representative for Panda Express but the notice was not mailed to the new address. The employer received a quarterly statement of charges and sent in a protest on June 4, 2012. No action was taken on this until a new protest was mailed in September 2012 after another statement of charges.

Meilia Widjaja was employed by Panda Express from September 1, 2007 until December 12, 2011 as a full-time counter person. On December 13, 2011, she gave a verbal resignation to her supervisor. There was no reason given but continuing work was available to the claimant had she not resigned.

Meilia Widjaja has received unemployment benefits since filing a claim with an effective date of December 11, 2011.

## REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6-2 provides in pertinent part:

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.

Iowa Code section 96.7-2-a(6) provides:

2. Contribution rates based on benefit experience.
  - a. (6) Within forty days after the close of each calendar quarter, the department shall notify each employer of the amount of benefits charged to the employer's account during that quarter. The notification shall show the name of each individual to whom benefits were paid, the individual's social security number, and the amount of benefits paid to the individual. An employer which has not been notified as provided in section 96.6, subsection 2, of the allowance of benefits to an individual, may within thirty days after the date of mailing of the notification appeal to the department for a hearing to determine the eligibility of the individual to receive benefits. The appeal shall be referred to an administrative law judge for hearing and the employer and the individual shall receive notice of the time and place of the hearing.

Iowa Workforce Development did not send the original notice of claim to the correct representative or address. The representative received the statement of charges and filed a protest immediately but even that was not acted upon until three months later when another protest was filed. The administrative law judge will accept the protest as timely as required under the provisions of the above Code section.

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.

The claimant quit her job without good cause attributable to the employer. Continuing work was available had she not resigned. As Ms. Widjaja did not participate in the hearing there has been no explanation for her decision. The administrative law judge must therefore conclude it was for personal reasons rather than for good cause attributable to the employer. The claimant is disqualified.

Iowa Code section 96.3-7, as amended in 2008, provides:

7. Recovery of overpayment of benefits.
  - a. If an individual receives benefits for which the individual is subsequently determined to be ineligible, even though the individual acts in good faith and is not otherwise at fault, the benefits shall be recovered. The department in its discretion may recover the overpayment of benefits either by having a sum equal to the overpayment deducted from

any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment.

b. (1) If the department determines that an overpayment has been made, the charge for the overpayment against the employer's account shall be removed and the account shall be credited with an amount equal to the overpayment from the unemployment compensation trust fund and this credit shall include both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5. However, provided the benefits were not received as the result of fraud or willful misrepresentation by the individual, benefits shall not be recovered from an individual if the employer did not participate in the initial determination to award benefits pursuant to section 96.6, subsection 2, and an overpayment occurred because of a subsequent reversal on appeal regarding the issue of the individual's separation from employment. The employer shall not be charged with the benefits.

(2) An accounting firm, agent, unemployment insurance accounting firm, or other entity that represents an employer in unemployment claim matters and demonstrates a continuous pattern of failing to participate in the initial determinations to award benefits, as determined and defined by rule by the department, shall be denied permission by the department to represent any employers in unemployment insurance matters. This subparagraph does not apply to attorneys or counselors admitted to practice in the courts of this state pursuant to section 602.10101.

The claimant has received unemployment benefits to which she is not entitled. The question of whether the claimant must repay these benefits is remanded to the UIS division.

**DECISION:**

The representative's decision of October 12, 2012, reference 01, is reversed. The employer's protest shall be accepted as timely. Meilia Widjaja is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount in insured work, provided she is otherwise eligible. The issue of whether the claimant must repay the unemployment benefits is remanded to UIS division for determination.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

bgh/css