

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PAH KLAY
Claimant

APPEAL 20A-UI-09645-BH-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

IOWA STAFFING INC
Employer

OC: 04/19/20
Claimant: Appellant (1)

Iowa Code section 96.5(1) – Voluntary Quit

Iowa Administrative Code rule 871-24.25 – Voluntary Quit Without Good Cause Attributable to the Employer

Iowa Administrative Code rule 871-24.26 – Voluntary Quit With Good Cause Attributable to the Employer

STATEMENT OF THE CASE:

The claimant, Pah Klay, appealed the July 21, 2020 (reference 01) unemployment insurance decision that denied benefits based upon a finding Pah Klay voluntarily quit her job with Iowa Staffing, Inc. (Iowa Staffing) without good cause attributable to the employer. The agency properly notified the parties of the appeal and hearing.

The undersigned presided over a telephone hearing on September 25, 2020. Pah Klay participated personally and testified. Iowa Staffing participated through Alejandra Rocha and recruiter Jim Martin, who testified.

ISSUE:

Was Pah Klay's appeal timely?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the undersigned finds the following facts.

Pah Klay has limited English proficiency when it comes to reading. The agency sent Pah Klay the decision he appealed in English. There was notice on the decision in various other languages that it contained important information about his rights and responsibilities under state and federal law regarding unemployment insurance benefits. However, Pah Klay is not proficient in any of these other languages. Consequently, Pah Klay could not read and understand when the deadline to appeal the decision was under the law.

In Pah Klay's appeal, he states:

I cannot read or speak English and was not put on notice of this decision and its deadline to appeal. Access to resources that would provide proper assistance are limited, especially with the demands of COVID-19. I was lucky enough to be provided with a referral to a community resource center [. . .]. However, by the time I was able to schedule an appointment with them and begin the appeals process, the deadline had passed. Therefore, I respectfully request that IWD consider these circumstances and waive the deadline to my appeal.

However, during the hearing, Pah Klay testified that family helped him interpret the decision so that he understood the deadline. Pah Klay has therefore presented two opposing assessments of when and how he learned of the deadline to file an appeal.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6(2) requires appeals to be filed within ten days for them to be timely. Iowa Administrative Code rules 871-24.35(2) states:

The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

b. The division shall designate personnel who are to decide whether an extension of time shall be granted.

c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the division after considering the circumstances in the case.

d. If submission is not considered timely, although the interested party contends that the delay was due to division error or misinformation or delay or other action of the United States postal service, the division shall issue an appealable decision to the interested party.

The evidence shows the agency sent the decision to Klay's last known address. Klay testified he received the decision and had his sister translate it for him. While the agency may have made a mistake by not providing Klay with notice that the decision contained important information about his rights and responsibilities under state law regarding unemployment insurance benefits, see U.S. Dep't of Labor, Unemployment Ins. Program Letter No. 30-11, "State Responsibilities Regarding Limited English Proficient (LEP) Individuals" (Sep. 16, 2011). Klay testified credibly that his sister interpreted the decision and he understood the deadline to file an appeal despite his appeal stating that he does not read or speak English well enough to understand the appeal deadline until he met with an advocate with a local non-profit organization, which occurred after the appeal deadline had passed because of COVID-19-related limitations on services. Thus, there is an insufficient basis from which to conclude the

cause of Pah Klay's late appeal was due to any possible agency error. For these reasons, the appeal is not timely.

Because Pah Klay's appeal was not timely and the reason for its untimeliness cannot be waived under Iowa Code section 96.6(2) and rule 871-24.25(2), this decision does not address whether Pah Klay is eligible for unemployment insurance benefits under state law. The decision denying benefits remains in effect.

DECISION:

Regular Unemployment Insurance Benefits Under State Law

The July 21, 2020 (reference 01) unemployment insurance decision is affirmed. Pah Klay's appeal is untimely. Benefits are withheld until such time as Pah Klay has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

Pandemic Unemployment Assistance (PUA) Under the Federal CARES Act

Even though Pah Klay is not eligible for regular unemployment insurance benefits under state law, he may be eligible for federally funded unemployment insurance benefits under the CARES Act. Section 2102 of the CARES Act creates a new temporary federal program called Pandemic Unemployment Assistance (PUA) that in general provides up to 39 weeks of unemployment benefits. An individual receiving PUA benefits may also receive the \$600 weekly benefit amount (WBA) under the Federal Pandemic Unemployment Compensation (FPUC) program if he is eligible for such compensation for the week claimed.

This decision does not address whether Pah Klay is eligible for PUA. For a decision on such eligibility, Pah Klay must apply for PUA, as noted in the instructions provided in the "Note to Claimant" below.



Ben Humphrey
Administrative Law Judge

October 15, 2020
Decision Dated and Mailed

bh/sam

NOTE TO CLAIMANT:

- This decision determines you are not eligible for regular unemployment insurance benefits under state law. If you disagree with this decision you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision.
- If you do not qualify for regular unemployment insurance benefits under state law and are currently unemployed for reasons related to COVID-19, you may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** For more information about how to apply for PUA, go to:

<https://www.iowaworkforcedevelopment.gov/pua-information>