

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

TROY M GAUL
Claimant

KWIK TRIP INC
Employer

APPEAL 17A-UI-00439-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 04/10/16
Claimant: Respondent (1)**

Iowa Code § 96.5(1)a – Voluntary Quitting – Other Employment
Iowa Code § 96.6(2) – Timeliness of Protest

STATEMENT OF THE CASE:

The employer filed a timely appeal from the April 27, 2016, (reference 01) decision that allowed benefits because claimant quit to accept other employment, and did not charge employer's account. After due notice was issued, a hearing was scheduled to be held by telephone conference call on February 3, 2017. No hearing was held as there was sufficient evidence in the appeal letter and administrative record to resolve the matter without testimony.

ISSUES:

Was the employer's protest timely?
Is the claimant's separation disqualifying?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The claimant quit to accept other employment and this employer's account should not have been charged. There was an agency error, and this employer's account was mistakenly charged which is why the employer filed this appeal. The error has been fixed administratively and the employer's account will be credited during the next quarter. As a result a hearing is not necessary. Claimant continues to be eligible for benefits as long as he is otherwise eligible, and this employer's account shall not be charged. Employer's account has been credited.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge concludes that the employer filed its protest within the time period prescribed by the Iowa Employment Security Law because the original decision was in the employer's favor and it was not on notice that an appeal should be filed. The underlying issues that lead to employer filing this appeal have been resolved and no further action is required by either party at this time.

Iowa Code § 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

Even though the separation was without good cause attributable to the employer and would, standing alone, would disqualify the claimant from receiving benefits, the claimant did leave in order to accept other employment. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The April 27, 2016, (reference 01) decision is affirmed. The employer has filed a timely protest, and the claimant quit to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged. The charges which were erroneously made to the employer's account have been adjusted administratively prior to the date of this decision. No hearing shall be held. Claimant continues to eligible for benefits as long as he is otherwise eligible, and this employer's account shall not be charged.

Duane L. Golden
Administrative Law Judge

Decision Dated and Mailed

dlg/rvs