

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JENNIFER L PRINCE
Claimant

HY-VEE INC
Employer

APPEAL 17A-UI-13419-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 11/26/17
Claimant: Appellant (4)

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.5(1) – Voluntary Quit
Iowa Code § 96.5(1)g – Voluntary Quit/Requalification

STATEMENT OF THE CASE:

Jennifer L. Prince (claimant) filed an appeal from the December 15, 2017, reference 02, unemployment insurance decision that denied benefits based upon the determination she voluntarily quit employment with Hy-Vee, Inc. (employer) but failed to show she quit with good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on January 31, 2018. The claimant participated. The employer did not respond to the hearing notice and did not participate. The Department's Exhibits D1 and D2 were admitted into the record.

ISSUES:

Is the appeal timely?

Has the claimant requalified for benefits since the separation from this employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was hired as a Kitchen Helper and attended one day of orientation on May 5, 2017. She did not return the following day. The claimant did not tell anyone she was not going to return and the employer did not contact the claimant after that day of orientation.

The claimant filed her claim for benefits effective November 26, 2017 and her weekly benefit amount (WBA) is \$201.00. The claimant has had two subsequent employers since her separation with this employer. Prior to filing her claim for benefits, the claimant earned ten times her WBA in insured wages from the two subsequent employers.

The unemployment insurance decision denying benefits was mailed to the claimant's address of record on December 15, 2017. The appellant did not receive the decision. The first notice of disqualification was communication with Iowa Workforce Development (IWD) on December 28, 2017. The appeal was sent immediately after that communication.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the claimant's appeal is timely and she voluntarily left the employment but has since requalified for benefits.

Iowa Code section 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 claimant did not have an opportunity to appeal the unemployment insurance decision because the decision was not received. Without notice of a disqualification, no meaningful opportunity for appeal exists. See *Smith v. Iowa Emp't Sec. Comm'n*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed an appeal within a reasonable period of time after discovering the disqualification. Therefore, the appeal shall be accepted as timely.

Iowa Code section 96.5(1)g 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:

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). The claimant's separation may be disqualifying. However, the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer (account number 006858) shall not be charged.

DECISION:

The claimant's appeal is timely. The December 15, 2017, reference 02, unemployment insurance decision is modified in favor of the claimant. The claimant voluntarily quit, but has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn