

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ROBIN R MCDANIEL
Claimant

APPEAL 15A-UI-10677-H2T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**SEQUEL YOUTH SERVICES OF
WOODWARD**
Employer

**OC: 04/19/15
Claimant: Respondent (4)**

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

STATEMENT OF THE CASE:

The employer filed a timely appeal from the September 17, 2015, (reference 02) decision that allowed benefits and found the protest untimely without having held a fact-finding interview pursuant to 871 IAC 24.9(2)b. After due notice was issued, a hearing was held by telephone conference call on October 7, 2015. Claimant participated. Employer participated through Marcia Dodds, Human Resources Director. Employer's Exhibit One was entered and received into the record. Both parties waived ten day notice of

ISSUES:

The issue is whether employer's protest is timely.

Did the claimant voluntarily quit hers employment to accept other employment?

FINDINGS OF FACT:

Having reviewed the evidence in the record, the administrative law judge finds: The claimant's notice of claim was e-mailed to the employer's address of record on April 22, 2015. The employer attempted to use the SIDES system to file their notice of protest, but a glitch in the system did not allow the employer's protest to be accepted. The employer's records establish that they were working on the SIDES system to file a timely protest. The employer learned that their account was being charged when they received their statement of charges.

Continued work was available for the claimant. The claimant left employment with this employer to accept other employment at Weiland Enterprises, Inc. She was subsequently separated from that employment.

REASONING AND CONCLUSIONS OF LAW:

The first issue is whether employer's protest is timely. The administrative law judge concludes it is.

Iowa Code § 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.

The employer did not have an opportunity to protest the notice of claim because the SIDES system did not allow them to file their notice of protest. Therefore, the protest shall be accepted as timely.

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment to accept employment elsewhere.

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 § 96.8, subsection 5.

Iowa Admin. Code r. 871-24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

- (5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. The employment does not have to be covered employment and does not include self-employment.

Iowa Admin. Code r. 871-23.43(5) provides:

- (5) Sole purpose. The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment. No charge shall accrue to the account of the former voluntarily quit employer.

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

DECISION:

The September 17, 2015, (reference 02) decision is modified in favor of the appellant. The employer did file a timely protest. The claimant voluntarily left her employment in order to accept other employment. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer (account number 306418) shall not be charged.

Teresa K. Hillary
Administrative Law Judge

Decision Dated and Mailed

tkh/css