

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

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Appeal Number: 06A-UI-02888-SWT  
OC: 12/04/05 R: 04  
Claimant: Respondent (4)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319**.

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

Section 96.6-2 – Timeliness of Protest  
Section 96.5-1-g – Voluntarily Quit Requalification

STATEMENT OF THE CASE:

The employer appealed an unemployment insurance decision dated February 28, 2006, reference 01, that concluded the employer's protest was untimely. A telephone hearing was held on March 30, 2006. The parties were properly notified about the hearing. The claimant participated in the hearing with the assistance of an interpreter, Ike Rocha. Elizabeth Billmeyer participated in the hearing on behalf of the employer. Exhibit One was admitted into evidence at the hearing.

FINDINGS OF FACT:

The claimant worked for the employer from December 12, 2000, to June 10, 2005. The claimant voluntarily quit employment with the employer because he was dissatisfied with working conditions. About a week after leaving employment, the claimant accepted a job with

Wicks Construction and earned more than ten times his weekly benefit amount before filing his claim for unemployment insurance benefits effective December 4, 2005.

The employer never received the notice of claim mailed to the employer on December 9, 2005. On February 24, 2006, the employer filed an appeal from the quarterly statement of benefit charges mailed to the employer on February 9, 2006.

#### REASONING AND CONCLUSIONS OF LAW:

The first issue is whether the employer is entitled to contest the eligibility of the claimant to receive unemployment insurance benefits.

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 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 evidence establishes that the claimant requalified by earning over ten times his weekly benefit amount after separating from employment with the employer. He is not subject to disqualification based on his separation from work with the employer and the employer's account will not accrue any charges pursuant to 871 IAC 23.43(8)d.

DECISION:

The unemployment insurance decision dated February 28, 2006, reference 01, is modified in favor of the employer. The claimant is qualified to receive unemployment insurance benefits, but the benefits shall not be charged to the employer's account.

saw/kkf