

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**RUSSELL D GIBSON**  
Claimant

**BLADES GROUP LLC**  
Employer

**APPEAL 21A-UCFE-00045-AW-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 04/05/20**  
**Claimant: Appellant (1)**

Iowa Code § 96.5(1) – Voluntary Quitting  
Iowa Code § 96.6(2) – Filing – Timely Appeal  
Iowa Admin. Code r. 871-24.35 – Filing

**STATEMENT OF THE CASE:**

Claimant filed an appeal from the January 4, 2021 (reference 02) unemployment insurance decision that denied benefits finding claimant voluntarily quit his employment with Blades Group on October 8, 2020 for personal reasons. The parties were properly notified of the hearing. A telephone hearing was held on December 20, 2021. Claimant 10:00 a.m. Employer participated through John Blades and Caroline Blades. No exhibits were admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant filed a timely appeal.

Whether claimant's separation was a voluntary quit without good cause attributable to employer.

**FINDINGS OF FACT:**

Having reviewed the evidence in the record, the administrative law judge finds:

The Unemployment Insurance Decision was mailed to claimant at the correct address on January 4, 2021. Claimant did not receive the decision. The decision states that it becomes final unless an appeal is postmarked or received by Iowa Workforce Development Appeals Section by January 14, 2021. Claimant appealed the decision online on October 28, 2021. Claimant's appeal was received by Iowa Workforce Development on October 28, 2021.

Claimant was employed as a full-time Government Territory Sales Representative from August 10, 2020 until his employment with Blades Group ended on October 8, 2020. Claimant's direct supervisor was Thomas Bonnen, Sales Director. Employer has a price list and a policy prohibiting employees from offering discounts without employer's approval.

On October 6, 2020, claimant performed a product demonstration to prospective clients. Bonnen attended the demo. Two prospective clients (Client A and Client B) observed the demo and discussed the product with claimant and Bonnen. With all four standing together, Client A stated that he was already using the product and was impressed with it. Bonnen asked Client A

where he obtained the product and what price he paid. Client A responded that he purchased it in a nearby town and paid \$17.00 per unit. Bonnen offered Client A the product at a price of \$17.00 per unit with the product delivered to Client A's door in an effort to make the sale. Claimant had previously quoted Client B a price of \$18.00 per unit based upon employer's pricing list. Claimant took issue with Bonnen offering Client A a discounted price, because it was less than the \$18.00 per unit price claimant previously quoted Client B and other potential clients.

On October 6, 2020, claimant emailed employer about what occurred at the demo and his qualms about employer's pricing and discounting policy and practices. On October 7, 2020, employer called claimant to discuss the issue. Employer explained to claimant that Bonnen had authority to offer the discount and offered the discount in an effort to close the sale with Client A as a direct customer. Claimant had not met his weekly or monthly sales goals. Bonnen believed that a sale at \$17.00 per unit was better than no sale at all.

On October 8, 2020, claimant emailed employer his resignation with immediate effect stating that remaining in his role is untenable. Claimant considered Bonnen's discount dishonest, unethical and a violation of employer's policy.

Employer had continuing work available for claimant if he did not quit. Claimant's job was not in jeopardy.

#### **REASONING AND CONCLUSIONS OF LAW:**

For the reasons that follow, the administrative law judge concludes claimant's appeal was timely.

Iowa Code § 96.6(2) provides, in pertinent part: "[u]nless 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."

Iowa Admin. Code r. 871-24.35(1) provides:

1. Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

(a) If transmitted via the United States Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

(b) If transmitted via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

(c) If transmitted by any means other than [United States Postal Service or the State Identification Data Exchange System (SIDES)], on the date it is received by the division.

Iowa Admin. Code r. 871-24.35(2) provides:

2. 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.

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). Compliance with appeal notice provisions is jurisdictional unless the facts of a case show that the notice was invalid. *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982). The question in this case thus becomes whether the appellant was deprived of a reasonable opportunity to assert an appeal in a timely fashion? *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973).

Claimant did not receive the decision. Therefore, the appeal notice provisions were invalid. Claimant did not have a reasonable opportunity to file a timely appeal. Claimant's appeal is considered timely.

The next issue to be determined is whether claimant's separation was a voluntary quit without good cause attributable to employer. For the reasons that follow, the administrative law judge concludes claimant voluntarily quit his employment without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992).

Claimant has the burden of proving that the voluntary leaving was for good cause attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973). The standard of what a reasonable person would have believed under the circumstances is applied in determining whether a claimant left work voluntarily with good cause attributable to the employer. *O'Brien v. Employment Appeal Bd.*, 494 N.W.2d 660 (Iowa 1993).

Where a claimant gives numerous reasons for leaving employment the agency is required to consider all stated reasons which might combine to give the claimant good cause to quit in determining any of those reasons constitute good cause attributable to the employer. *Taylor v. Iowa Dep't of Job Serv.*, 362 N.W.2d 534 (Iowa 1985).

Iowa Admin. Code r. 871-24.25(21) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find claimant's testimony that he quit, in part, due to racist comments made by Bonnen to lack credibility. Claimant did not bring the issue to employer's attention during his employment. Claimant did not mention the issue in his October 6, 2020 email, October 7, 2020 conversation, or October 8, 2020 resignation email. Claimant did not mention the issue during his direct examination or additional testimony at the hearing. Claimant mentioned the issue for the first time during cross examination by employer.

Claimant's written resignation is both evidence of his intention to sever the employment relationship and an overt act of carrying out his intention. Claimant voluntarily quit his employment. Claimant quit because the sales manager quoted a prospective client a lower price than claimant had quoted other prospective clients. The sales manager had authority to offer the discount and, thus, did not violate employer's policy. A reasonable person would not find the sales manager's conduct dishonest or unethical. The reason claimant quit does not constitute intolerable or detrimental working conditions.

Claimant has not met his burden of proving he voluntarily quit employment for good cause attributable to employer. Benefits are denied.

**DECISION:**

The appeal is considered timely. The January 4, 2021 (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily quit without good cause attributable to employer. Benefits are denied.



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Adrienne C. Williamson  
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December 30, 2021  
Decision Dated and Mailed

acw/acw