

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

DEMETRIUS A HARRIS
Claimant

APPEAL 18A-UI-10587-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

MENARD INC
Employer

OC: 02/04/18
Claimant: Appellant (4)

Iowa Code § 96.6(2) – Timeliness of Appeal
Iowa Code § 96.5(2)a – Discharge for Misconduct - Requalification

STATEMENT OF THE CASE:

Demetrius A. Harris (claimant) filed an appeal from the June 28, 2018, reference 06, unemployment insurance decision that denied benefits based upon the determination Menard, Inc. (employer) discharged him for leaving work without permission. The parties were properly notified about the hearing. A telephone hearing was held on November 28, 2018. The claimant participated. The employer participated through Second Assistant Manager Josh Warren. The administrative law judge took official notice of the administrative record including the claimant's database readout (DBRO), wage record (WAGE-A), and appeal letter.

ISSUES:

Is the claimant's 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: A disqualification decision was mailed to the claimant's last known address of record on June 28, 2018. He received the decision which contained a warning that an appeal must be postmarked or received by the Appeals Bureau by July 8, 2018. The appeal was not filed until October 24, 2018, which is after the date noticed on the disqualification decision.

The claimant filed his original claim for benefits effective February 4, 2018 and his weekly benefit amount is \$242.00. He worked for the employer beginning April 17, 2018 and was separated from employment on June 1, 2018. The claimant reactivated his claim for benefits effective September 30, 2018. The administrative record shows the claimant has earned more than \$2,420.00 in insured benefits since his separation and prior to reactivating his claim.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's appeal is untimely but he has requalified for benefits since the separation and before reactivating his claim.

Iowa Code section 96.6(2) provides, in pertinent part:

Filing – determination – appeal.

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.

Iowa Code section 96.5(2)a provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

2. Discharge for misconduct. If the department finds that the individual has been discharged for misconduct in connection with the individual's employment:

a. The disqualification shall continue until the individual has worked in and has been paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant has requalified for benefits since the separation from this employer and before reactivating his claim for benefits. Accordingly, benefits are allowed, provided he is otherwise eligible, and the account of the employer (account number 016752) shall not be charged.

DECISION:

The June 28, 2018, (reference 06) unemployment insurance decision is modified in favor of the appellant, in this case the claimant. The appeal in this case was not timely, but the claimant has requalified for benefits since the separation and before reactivating his claim for benefits. Therefore, benefits are allowed, provided the claimant is otherwise eligible, and the account of the employer (account number 016752) shall not be charged.

Stephanie R. Callahan
Administrative Law Judge

Decision Dated and Mailed

src/scn