

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

---

**NOLAN GRUNDY**  
Claimant

**HY VEE INC**  
Employer

**APPEAL 22A-UI-00154-LJ-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 12/13/20**  
**Claimant: Appellant (4)**

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

**STATEMENT OF THE CASE:**

On November 26, 2021, claimant Nolan Grundy filed an appeal from the February 16, 2021 (reference 01) unemployment insurance decision that denied benefits based on a determination that claimant voluntarily quit employment with Hy-Vee, Inc. The parties were properly notified of the hearing. A telephonic hearing was held at 9:00 a.m. on Friday, January 21, 2021. Appeal numbers 2A-UI-00154-LJ-T, 22A-UI-00155-LJ-T, and 22A-UI-00156-LJ-T were heard together and created one record. The claimant, Nolan Grundy, participated. Goodwill job coach Trisha Sadler represented the claimant and testified on his behalf. The employer, Hy-Vee, Inc., participated through witness Stephanie Conyers, Human Resource Manager; and was represented by Corporate Cost Control hearing representative Trenton Kilpatrick. Department Exhibits D-1 and D-2 were received and admitted into the record. The administrative law judge took official notice of the administrative record.

**ISSUES:**

Did the claimant file a timely appeal?  
Has the claimant requalified for benefits since separating from this employer?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Claimant began working for Hy-Vee, Inc., on May 13, 2019. He was employed part-time as a courtesy clerk for the store until July 9, 2020, when he quit. Claimant decided to quit his job because it was too much for him. He found the work and responsibilities overwhelming. Continued work was available, had claimant not quit his employment.

Claimant's weekly benefit amount ("WBA") for the claim year effective December 13, 2020, is \$87.00. Claimant's Iowa Workforce Development wage record show that he earned at least ten times his WBA in insured wages since separating from this employer.

The unemployment insurance decision was mailed to the claimant's address of record on February 16, 2021. The claimant did not receive the decision. The first notice claimant had that his employment with Hy-Vee, Inc., had affected his benefits was when he received the two overpayment decisions dated November 16, 2021. The appeal was sent within ten days after he received those two decisions.

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

For the reasons that follow, the administrative law judge concludes the claimant voluntarily left the employment without good cause attributable to the employer but has since requalified for benefits.

The first issue to be considered in this appeal is whether the appeal is timely. The administrative law judge determines it is.

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).

Here, the claimant did not have an opportunity to appeal the fact-finder's 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 timely appealed the two overpayment decisions, which were the first notice of disqualification. Therefore, the appeal shall be accepted as timely.

The next issue is whether the claimant is eligible for benefits. Iowa Code §96.5(1) 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.

Iowa Admin. Code r. 871-24.25 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 Code section 96.5(1)g provides:

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

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 from this employer is disqualifying. However, the administrative law judge further concludes from information contained in the administrative record that the claimant

has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer Hy-Vee, Inc. (account number 006858) shall not be charged.

**DECISION:**

The February 16, 2021, (reference 01) unemployment insurance decision is modified in favor of the claimant/appellant. The claimant quit without good cause attributable to the employer, 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.



---

Elizabeth A. Johnson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau

February 10, 2022  
Decision Dated and Mailed

lj/lj