

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

BERNEICE BAILEY
PO BOX 1952
CLINTON IA 52733

SKYLINE CENTER INC
PO BOX 3064
CLINTON IA 52733-3064

Appeal Number: 04A-UI-03737-CT
OC: 02/15/04 R: 04
Claimant: Appellant (4-R)

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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit
Section 96.6(2) – Timeliness of Appeals

STATEMENT OF THE CASE:

Berneice Bailey filed an appeal from a representative's decision dated March 19, 2004, reference 01, which denied benefits based on her separation from Skyline Center, Inc. After due notice was issued, a hearing was held by telephone on April 26, 2004. Ms. Bailey participated personally. The employer participated by Lisa Hammond, Human Resources Manager.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all the evidence in the record, the administrative law judge finds: The representative's decision which is the subject of this appeal was mailed to Ms. Bailey at her address of record on March 19, 2004. She did not receive the decision until April 1 and filed her appeal on April 2, 2004.

Ms. Bailey began working for Skyline Center, Inc. on April 24, 2003 as a part-time direct care manager. She averaged approximately 20 hours of work each week. Ms. Bailey quit the employment on February 7, 2004 to devote her full efforts to her full-time job with Swiss Colony. She has worked for Swiss Colony since 1995.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this matter is whether Ms. Bailey's appeal should be considered timely filed. She did not receive the decision prior to the March 29, 2004 due date. Therefore, she could not have perfected a timely appeal. As such, the appeal filed on April 2, 2004 shall be deemed timely filed.

The next issue in this matter is whether Ms. Bailey was separated from employment for any disqualifying reason. An individual who leaves employment voluntarily is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code Section 96.5(1). Ms. Bailey quit her part-time job in order to work only for her full-time employer. Her reason for quitting was not attributable to Skyline Center, Inc. An individual who voluntarily quits part-time employment without good cause attributable to the employer may nevertheless qualify for job insurance benefits if there are sufficient other wage credits to establish a valid claim. See 871 IAC 24.27(96). Wage credits earned with the part-time employer that was quit may not be used on the claim until such time as the individual requalifies by earning ten times the weekly benefit amount in insured wages after the disqualifying separation.

Ms. Bailey has other wage credits in the base period of her claim. This matter shall be remanded to Claims to determine her weekly and maximum benefit amounts without consideration of the wages earned with Skyline Center, Inc.

DECISION:

The representative's decision dated March 19, 2004, reference 01, is hereby modified. Ms. Bailey voluntarily quit her part-time employment for no good cause attributable to the employer. This matter is remanded to Claims for a determination as to her eligibility for benefits after deletion of wage credits earned with the part-time employer. Benefits paid to Ms. Bailey as a result of the decision herein shall not be charged to Skyline Center, Inc.

cfc/b