

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALEXANDER PEEBLES
Claimant

CASEY'S MARKETING COMPANY
Employer

APPEAL 20A-UI-14088-CL-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/12/20
Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Code § 96.6(2) - Timeliness of Appeal

STATEMENT OF THE CASE:

On November 5, 2020, the claimant filed an appeal from the June 18, 2020, (reference 01) unemployment insurance decision that denied REGULAR unemployment insurance benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 6, 2021. Claimant participated. Employer did not register for the hearing and did not participate. Department Exhibit 1 was received.

ISSUES:

Is the appeal timely?
Did claimant voluntarily quit the employment with good cause attributable to employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: On June 18, 2020, Iowa Workforce Development (IWD) mailed claimant a reference 01 unemployment insurance decision that denied REGULAR unemployment insurance benefits. Claimant filed a timely appeal, but did not hear back from IWD regarding his appeal. On November 2, 2020, IWD mailed claimant a reference 02 unemployment insurance decision finding claimant overpaid REGULAR unemployment insurance benefits. Claimant filed a timely appeal.

Claimant began working for employer in January 2019. Claimant last worked as a part-time delivery driver/kitchen staff. Claimant was separated from employment on March 6, 2020, when he resigned to become self-employed.

Claimant started driving for Uber the weekend before resigning. Claimant drove Uber until approximately March 17, 2020, when Iowa Governor Kim Reynolds suspended in person dining and closed down bars due to the Covid 19 pandemic. After that, business completely died off and claimant did not drive for Uber again until July 2, 2020.

Claimant received REGULAR unemployment insurance benefits in the amount of \$1,064.00 and Federal Pandemic Unemployment Compensation (FPUC) benefits in the amount of \$4,800.00

for the eight weeks ending June 6, 2020. Claimant received the FPUC benefits based on his receipt of REGULAR unemployment insurance benefits.

REASONING AND CONCLUSIONS OF LAW:

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

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

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.

The claimant filed an appeal in a timely manner but it was not received. Immediately upon receipt of information to that effect, a second appeal was filed. Therefore, the appeal shall be accepted as timely.

The next issue is whether claimant's separation from employer disqualifies him from receiving unemployment insurance benefits.

Iowa Admin. Code r. 871-24.25(19) 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:

(19) The claimant left to enter self-employment.

Here, the claimant resigned to enter self-employment. Therefore, this separation from employment disqualifies claimant from receiving REGULAR unemployment insurance benefits.

DECISION:

The June 18, 2020, (reference 01) unemployment insurance decision is affirmed. The appeal is timely. Claimant voluntarily left the employment without good cause attributable to the employer. REGULAR benefits are withheld until such time as he has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.



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January 25, 2021
Decision Dated and Mailed

cal/mh