

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

NANCY VASQUZ BARRIOS

Claimant

APPEAL NO: 14A-UI-11195-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL MEAT SOLUTIONS CORP

Employer

OC: 09/21/14

Claimant: Appellant (1)

Iowa Code § 96.5(1) – Voluntary Quit

Iowa Code § 96.6(2) – Timely Appeal

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's October 15, 2014 (reference 01) determination that disqualified her from receiving benefits and held the employer's account exempt from charge because she voluntarily quit her employment for reasons that do not qualify her to receive benefits. The claimant participated at the November 17 hearing. Frances Landolphi represented the employer. Martha Gutierrez testified on the employer's behalf. Based on the evidence, the arguments of the parties, and the law, the administrative law judge concludes the claimant is not qualified to receive benefits.

ISSUES:

Did the claimant file a timely appeal or establish a legal excuse for filing a late appeal?

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

FINDINGS OF FACT:

The claimant started working for the employer in March 2008. She worked full time. Toward the end of her employment, the claimant wanted to have her family's support. The claimant's last day of work for the employer was May 21, 2014.

The claimant decided to visit her family in California. While she was in California, she decided to move to California to be close to her family. The claimant did not give the employer any notice she was resigning, she just did not return to work after May 21, 2014.

The claimant established a claim for benefits during the week of September 21, 2014. A determination was mailed to the parties on October 15, 2014. The determination informed the parties the claimant was not qualified to receive benefits because she had voluntarily quit for reasons that did not qualify her to receive benefits. The determination also informed the parties an appeal had to be filed or postmarked on or before October 25, 2014.

The claimant received the October 15 determination by October 19. The claimant did not understand where she needed to file her appeal, California or Iowa. She contacted a representative who told the claimant she had 15 days to appeal the determination.

The representative gave the claimant this information even though the claimant told the representative that the determination indicated she only had until October 25 to appeal. The claimant filed her appeal on October 28 by faxing it to the Appeals Bureau.

REASONING AND CONCLUSIONS OF LAW:

The law states that an unemployment insurance determination is final unless a party appeals the determination within ten days after the determination was mailed to the party's last known address. Iowa Code § 96.6(2). The Iowa Supreme Court has ruled that appeals must be filed within the time limit set by statute and the administrative law judge has no authority to review a decision if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979); *Beardslee v. IDJS*, 276 N.W.2d 373 (Iowa 1979). In this case, the appeal was filed after the October 27 deadline for appealing expired. Since October 25 was a Saturday, the deadline to appeal was automatically extended to Monday, October 27, 2014.

The next question is whether the claimant had a reasonable opportunity to file a timely appeal. *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant had a reasonable opportunity to file a timely appeal since she received it by October 19.

The claimant's failure to file a timely appeal was due in part to misinformation she received from a representative. As a result of this misinformation, the claimant established as a legal excuse for filing a late appeal. 871 IAC 24.35(2). Therefore, the Appeals Bureau has legal jurisdiction to make a decision on the merits of the appeal.

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5(1). When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6(2).

The claimant established personal reasons for quitting, relocating to be with her family, but her reasons do not qualify her to receive benefits. 871 IAC 24.25(2). As of September 21, 2014 the claimant is not qualified to receive benefits.

DECISION:

The representative's October 15, 2014 (reference 01) determination is affirmed. The claimant filed her appeal late, but she established a legal excuse for filing a late appeal. The Appeals Bureau has jurisdiction to address the merits of the claimant's appeal. The claimant voluntarily quit her employment for personal reasons, but her reasons do not qualify her to receive benefits. As of September 21, 2014 the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/can