

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**GREGORY F RALEIGH**  
Claimant

**APPEAL NO. 10A-UI-08454-SWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**MIDWEST PROFESSIONAL STAFFING LLC**  
Employer

**OC: 01/17/10**  
**Claimant: Appellant (4)**

Section 96.5-2-a – Discharge  
Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

The claimant appealed an unemployment insurance decision dated February 16, 2010, reference 02, that concluded he was discharged for work-connected misconduct. A telephone hearing was held on July 29, 2010. The parties were properly notified about the hearing. The claimant participated in the hearing. No one participated in the hearing on behalf of the employer. During the hearing, the claimant stated he was not appealing the decision dated February 16, 2010, but instead believed he was eligible for benefits because he had returned to work for the employer on February 12 and worked there until May 6 when he was laid off. Exhibit A-1 was admitted into evidence at the hearing. The claimant submitted wage records showing wages of \$4,530.00 after separated from the employer on January 20, 2010, which are admitted into evidence as Exhibit A.

**ISSUES:**

Was the appeal in this case filed timely?

Has the claimant requalified since his separation from employment?

**FINDINGS OF FACT:**

An unemployment insurance decision was mailed to the claimant's last-known address of record on February 16, 2010. The decision concluded he was discharged for work-connected misconduct on January 20, 2010, and stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by February 26, 2010.

The claimant received the decision within the ten-day period for appealing the decision. He did not appeal it because he went back to work for the employer on February 12, 2010. He worked there until May 6 when he was laid off. The claimant submitted wage records showing wages of \$4,530.00 from February 12 through May 6, 2010. The claimant's weekly benefit amount is \$272.00.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue in this case is whether the claimant filed a timely appeal.

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 decision disqualifying the claimant effective January 20, 2010, is final since the claimant did not appeal it on time.

The nature of an unemployment disqualification, however, is a person is disqualified until he has been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible. The claimant has presented proof of qualifying wages and his claim should be unlocked.

**DECISION:**

The unemployment insurance decision February 16, 2010, reference 02, is modified. The appeal in this case was not timely, and the unemployment insurance decision disqualifying the claimant from receiving benefits remains in effect. The disqualification, however, should be removed because the claimant has presented proof of requalifying wages.

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Steven A. Wise  
Administrative Law Judge

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Decision Dated and Mailed

saw/css