

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

ALLEN J KEANE
Claimant

JAMES CHIPMAN
Employer

APPEAL 21A-UI-07759-S1-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/27/20
Claimant: Appellant (2/R)

Iowa Code § 96.6(2) - Timeliness of Appeal
Iowa Code § 96.5-2-a – Discharge for Misconduct
Iowa Code § 96.5-1 - Voluntary Quit
871 IAC 24.26(22) – Specific Period of Employment

STATEMENT OF THE CASE:

Allen Keane (claimant) appealed an Iowa Workforce Development March 3, 2021, decision (reference 01) that concluded ineligibility to receive unemployment insurance benefits due to voluntarily quitting with the James Chipman (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on May 12, 2021. The claimant participated personally. The employer participated by Mike Bergin, Senior Vice President and Chief Financial Officer.

Exhibit D-1 was received into evidence. The administrative law judge took official notice of the administrative file.

ISSUES:

The issue is whether the appeal was filed in a timely manner and, if so, whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on May 11, 2020, as a full-time summer intern. The employer told the claimant he could pick his last day of work in August 2020. The claimant completed his work assignment on August 7, 2020, and returned to school at Iowa State University.

A disqualification decision was mailed to the parties' last known address of record on March 3, 2021. The claimant did not receive the decision within ten days. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by March 15, 2021. The appeal was filed on March 16, 2021, which is after the date noticed on the decision. The claimant learned of the decision from the Agency and was told how to file an appeal.

An Iowa Workforce Development March 26, 2021, decision (reference 03) that concluded the claimant had earned ten times his weekly benefit amount since his employment with the employer.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code section 96.6(2) provides:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant. 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. The claimant has the burden of proving that the claimant meets the basic eligibility conditions of section 96.4. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to section 96.5, except as provided by this subsection. The claimant has the initial burden to produce evidence showing that the claimant is not disqualified for benefits in cases involving section 96.5, subsections 10 and 11, and has the burden of proving that a voluntary quit pursuant to section 96.5, subsection 1, was for good cause attributable to the employer and that the claimant is not disqualified for benefits in cases involving section 96.5, subsection 1, paragraphs "a" through "h". 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. If an administrative law judge affirms a decision of the representative, or the appeal board affirms a decision of the administrative law judge allowing benefits, the benefits shall be paid regardless of any appeal which is thereafter taken, but if the decision is finally reversed, no employer's account shall be charged with benefits so paid and this relief from charges shall apply to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

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 Employment Security Commission*, 212 N.W.2d 471, 472 (Iowa 1973). The claimant filed an appeal as soon as heard about the decision. Therefore, the appeal shall be accepted as timely.

For the reasons that follow the administrative law judge concludes benefits are allowed, provided claimant is otherwise eligible.

Iowa Code section 96.5(1) 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.

Iowa Admin. Code r. 871-24.26(22) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(22) The claimant was hired for a specific period of time and completed the contract of hire by working until this specific period of time had lapsed. However, this subrule shall not apply to substitute school employees who are subject to the provisions of Iowa Code section 96.4(5) which denies benefits that are based on service in an educational institution when the individual declines or refuses to accept a new contract or reasonable assurance of continued employment status. Under this circumstance, the substitute school employees shall be considered to have voluntarily quit employment.

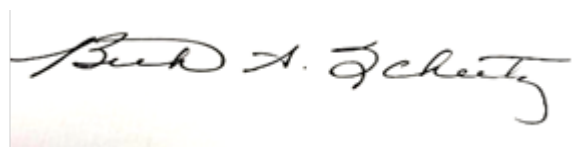
If an employee is employed for a specific time and works for that time, the employee's leaving is with good cause attributable to the employer. The claimant was hired as a summer intern. The claimant worked for the summer. Inasmuch as the claimant completed the contract of hire with the employer, no disqualification is imposed for the claimant's leaving.

The issue of whether claimant was able and available for work as a full-time student is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.

DECISION:

The March 3, 2021, reference 01, decision is reversed. The appeal in this case was timely. The claimant's separation from employment was for no disqualifying reason. Benefits are allowed, provided the claimant is otherwise eligible.

The issue of whether claimant was able and available for work as a full-time student is remanded to the Benefits Bureau of Iowa Workforce Development for an initial investigation and decision.



Beth A. Scheetz
Administrative Law Judge

May 20, 2021
Decision Dated and Mailed

bas/scn