

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DOUGLAS ROUSH
Claimant

APPEAL NO: 12A-UI-08240-BT

**ADMINISTRATIVE LAW JUDGE
DECISION**

CARGILL INC
Employer

OC: 06/03/12
Claimant: Appellant (2)

Iowa Code § 96.5-1 - Voluntary Quit
Iowa Code § 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

Douglas Roush (claimant) appealed an unemployment insurance decision dated June 20, 2012, reference 01, which held that he was not eligible for unemployment insurance benefits because he voluntarily quit his employment with Cargill, Inc. (employer) without good cause attributable to the employer. After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on August 2, 2012. The claimant participated in the hearing. The employer elected not to participate. Exhibit D-1 was admitted into evidence. Based on the evidence, the arguments of the party, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

ISSUE:

The issue is whether the claimant's appeal is timely, and if so, whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: A disqualification decision was mailed to the claimant's last-known address of record on June 20, 2012. The claimant never received the decision. The decision contained a warning that an appeal must be postmarked or received by the Appeals Section by June 30, 2012. The appeal was not filed until July 9, 2012, which is after the date noticed on the disqualification decision.

The claimant was employed from April 1986 through June 3, 2011 and was most recently working as a production supervisor. He voluntarily quit because he was being penalized for an insubordinate's safety violation. The violation occurred in May 2011 and the claimant was on vacation. He was suspended when he returned and was either going to be placed on a performance improvement plan or had to take rotating shifts.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code Section 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 did not receive the decision within the ten-day time period allowed for the appeal. He did file an appeal immediately upon receiving information he had been disqualified. Therefore, the appeal shall be accepted as timely.

The substantive issue to be determined in this case is whether the claimant's voluntary separation from employment qualifies him to receive unemployment insurance benefits. He is not qualified to receive unemployment insurance benefits if he voluntarily quit without good cause attributable to the employer. Iowa Code § 96.5-1.

The claimant quit his employment on June 3, 2011 because he was being penalized for an insubordinate's safety violation. It is his burden to prove that the voluntary quit was for a good cause that would not disqualify him. Iowa Code § 96.6-2. The claimant has satisfied that burden and benefits are allowed.

DECISION:

The claimant's appeal is timely. The unemployment insurance decision dated June 20, 2012, reference 01, is reversed. The claimant voluntarily quit his employment with good cause attributable to the employer and is qualified to receive unemployment insurance benefits, provided he is otherwise eligible.

Susan D. Ackerman
Administrative Law Judge

Decision Dated and Mailed

sda/pjs