

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

JAMES L HILBERT
Claimant

APPEAL NO: 14A-UI-03550-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BAUER BUILT INC
Employer

OC: 03/02/14
Claimant: Appellant (1)

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

PROCEDURAL STATEMENT OF THE CASE:

The claimant appealed a representative's March 20, 2014 determination (reference 02) that disqualified him from receiving benefits and held the employer's account exempt from charge because he voluntarily quit his employment for reasons that do not qualify him to receive benefits. The claimant participated at the April 23 hearing. Michael Kuehl, the manager, and Janine Kralewski appeared 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?

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

FINDINGS OF FACT:

The claimant started working for the employer in November 2007. He worked full time as the lead service technician. Kuehl has been the store manager for the last six years. Kuehl's unwritten policy is that one sales person and one service technician can be gone on vacation and the first sales person or service technician who requests time off gets it.

As a result of the claimant's custody situation, he had one day he could celebrate Christmas with his children. In mid-November 2013, the claimant asked Kuehl if he could have December 24 off from work. Kuehl denied this time off because another service technician had already asked for that same day off. Kuehl indicated the only way the claimant could have that time off was if the other employee agreed to work that day.

The claimant asked the other employee, but he already had plans and could not change his plans. In late November, the claimant gave the employer a two-week notice that his last day of work would be December 14, 2013. The claimant worked until the effective date of his resignation.

The claimant told the employer he resigned because he had another job. The claimant did not have another job when he resigned. He had potential job opportunities, but nothing concrete. If the employer had granted him the day off so he could be with his children, the claimant would not have resigned.

The claimant established a claim for benefits during the week of March 2, 2014. On March 20, 2014, a representative's determination disqualified the claimant from receiving benefits. This determination was mailed to the parties on March 20, 2014. The claimant received the determination on or before March 28, 2014. The determination also informed the parties an appeal had to be filed or postmarked on or before March 30, 2014. The claimant mailed his appeal letter outside the Tipton courthouse. The claimant's appeal was postmarked April 2, 2014, Quad Cities.

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). The evidence indicates the claimant filed his appeal on March 31, 2014. The claimant established that he filed his appeal on time. It is obvious that the claimant's appeal letter was not stamped in Tipton where he mailed it, but at a regional postal processing facility in the Quad Cities. The claimant's testimony is credible that he mailed his appeal on March 31, which would be timely. Since March 30 was a Sunday, the time to file a timely appeal was automatically extended to Monday, March 31, 2014. The Appeals Bureau has jurisdiction to address the merits of the claimant's appeal.

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

The claimant established compelling personal reasons for quitting. The claimant's decision to make his children a priority at Christmas is commendable. But quitting because the employer denied him time off on December 24 does not qualify him to receive benefits.

DECISION:

The representative's March 20, 2014 determination (reference 02) is affirmed. The claimant filed a timely appeal. The Appeals Bureau has legal jurisdiction to address the merits of the claimant's appeal. The claimant voluntarily quit his employment for compelling personal

reasons, but his reasons do not qualify him to receive benefits. As of December 13, 2013, the claimant is disqualified from receiving unemployment insurance benefits. This disqualification continues until he has been paid ten times his weekly benefit amount for insured work, provided he is otherwise eligible. The employer's account will not be charged.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/pjs