

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**RANDY G LEWIS**

Claimant

**APPEAL NO. 12A-UI-05182-NT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**UNIVERSAL ENSCO INC**

Employer

**OC: 03/28/10**

**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

Section 96.6-2 – Timeliness of Appeal

**STATEMENT OF THE CASE:**

Randy Lewis filed an untimely appeal from a representative's decision dated January 5, 2011, reference 03, which denied unemployment insurance benefits. After due notice was issued, a telephone hearing was held on May 29, 2012. The claimant participated. Although duly notified, the employer did not participate.

**ISSUE:**

At issue is whether the claimant filed a timely appeal and whether the claimant quit employment with good cause attributable to the employer.

**FINDINGS OF FACT:**

Having considered the evidence in the record, the administrative law judge finds: Randy Lewis was employed by Universal Ensco for approximately six months before volunteering to be laid off from work on October 24, 2011. Mr. Lewis worked as a full-time coating inspector for the company and was paid by the hour. His immediate supervisor was Phil Randolph.

On October 24, 2011, Mr. Lewis was offered the option of volunteering to take a layoff because of compelling personal reasons. The claimant's immediate supervisor offered Mr. Lewis the option of taking the voluntary layoff and agreed that the claimant could return to work if he returned within a reasonable period of time. Mr. Lewis did not attempt to return to work with Universal Ensco, Inc., as his period of time away from work exceeded both his expectations and the expectations of his supervisor. The claimant did not believe it was worthwhile to return to one or two weeks of work because the job location was approximately 1500 miles from his residence.

The appeal in this matter was filed beyond the ten-day statutory time limit because Mr. Lewis did not receive a copy of the original determination at his residence.

## **REASONING AND CONCLUSIONS OF LAW:**

The question before the administrative law judge is whether the claimant left employment with good cause attributable to the employer. He did not.

Iowa Code section 96.5-1 provides:

An individual shall be disqualified for benefits:

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.

871 IAC 24.25(20) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(20) The claimant left for compelling personal reasons; however, the period of absence exceeded ten working days.

The evidence in the record establishes that the claimant's late appeal took place because Mr. Lewis did not receive the notice of adjudicator's determination at his place of residence and became aware of the determination only when he later received a determination that he had been overpaid unemployment insurance benefits.

The evidence in the record establishes that Mr. Lewis volunteered to be laid off on or about October 24, 2011, for a compelling personal reason. Although the claimant was given the option by his employer to return to work after an extended period of time, Mr. Lewis did not do so, as the personal reason for his leaving took an extended period of time to resolve and the claimant did not feel it was worthwhile to attempt to return to work for one to two weeks of work at a distant job location.

Although sympathetic to the claimant's situation, the administrative law judge concludes, based upon the evidence in the record, that the claimant left employment for a compelling personal reason. However, the claimant's period of absence exceeded ten working days and the claimant did not attempt to return to employment with Universal Ensco, Inc. Because the claimant's reasons for leaving were not attributable to the employer and the claimant did not attempt to return to work within the statutory ten-day time limit, the administrative law judge concludes the claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld.

**DECISION:**

The representative's decision dated January 5, 2011, reference 03, is affirmed. The claimant left employment without good cause attributable to the employer. Unemployment insurance benefits are withheld until the claimant has worked in and been paid wages for insured work equal to ten times his weekly benefit amount, provided he is otherwise eligible.

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Terence P. Nice  
Administrative Law Judge

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Decision Dated and Mailed

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