

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

DAVID M KUT
Claimant

APPEAL NO. 12A-UI-06180-MT

**ADMINISTRATIVE LAW JUDGE
DECISION**

BRIDGESTONE AMERICAS TIRE
Employer

OC: 04/22/12
Claimant: Appellant (1)

Section 96.5-1 – Voluntary Quit
Section 96.6-2 – Timeliness of Appeal

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated May 11, 2012, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on June 21, 2012. Claimant participated. Employer participated by Jim Funcheon, division human resource manager, and Tom Barragan, human resource section manager. Exhibits One and A were admitted into evidence.

ISSUES:

Whether claimant quit for good cause attributable to employer.

Whether the appeal is timely.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and having considered all of the evidence in the record, finds: Claimant last worked for employer on February 12, 2012. Claimant went on an approved leave of absence. Claimant was to return to work March 19, 2012. Claimant contracted a bad case of malaria while visiting Uganda. Claimant was delayed in returning to the USA until April 18, 2012. Claimant emailed employer to inform them he would be delayed. Employer on March 27, 2012 informed claimant that he needed a return to work date. Claimant next contacted employer April 19, 2012.

Claimant received the adverse decision on May 22, 2012 and filed the appeal on May 23, 2012.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he failed to timely return from an approved leave of absence. Claimant failed to keep employer informed of his need to be off due to illness. Claimant initially contacted employer but did not keep them updated. The failure to respond from a leave of absence is a voluntary quit.

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.

Claimant filed the appeal within one day of actual receipt of the adverse decision. The appeal is timely.

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, subsection 10, 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.

DECISION:

The decision of the representative dated May 11, 2012, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible. Claimant's appeal is timely.

Marlon Mormann
Administrative Law Judge

Decision Dated and Mailed

mdm/kjw