

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

PETE MARTINEZ

Claimant

TEAM STAFFING SOLUTIONS INC

Employer

APPEAL 20A-UI-00620-SC-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 12/15/19

Claimant: Appellant (4)

Iowa Code § 96.5(1)g – Voluntary Leaving/Requalification

Iowa Code § 96.6(2) – Timeliness of Appeal

STATEMENT OF THE CASE:

On January 22, 2020, Pete Martinez (claimant) filed an appeal from the January 10, 2020, reference 02, unemployment insurance decision that denied benefits based upon the determination he voluntarily quit employment with Team Staffing Solutions, Inc. (employer) for personal reasons which does not constitute good cause attributable to the employer. The parties were properly notified about the hearing. A telephone hearing was held on February 6, 2020. The claimant participated personally. The employer participated through Sarah Fiedler, Risk Manager. The Department's Exhibits D1 and D2 were admitted into the record. The administrative law judge took official notice of the claimant's claim and wage histories.

ISSUES:

Is the claimant's appeal timely?

Has the claimant requalified for benefits since the separation from this employer?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: A disqualification decision was mailed to the claimant's last known address of record on January 10, 2020. He received the decision within ten days on or about January 12. The decision contained a warning that an appeal must be postmarked or received by the Appeals Bureau by January 20 or the next work day if it fell on a weekend or holiday. In this case, the appeal needed to be filed by January 21 as January 20 was a holiday. The appeal was not filed until January 22, which is after the deadline.

The claimant separated from this employer (account number 303492) in the third quarter of 2019. He filed a claim for unemployment insurance benefits effective December 15, 2019 and his weekly benefit amount is \$518.00. The administrative record shows the claimant earned more than \$5,180.00 from Union Tank Car Company after his separation from this employer and prior to filing his claim for benefits.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes claimant's appeal is untimely but he has requalified for benefits since the separation and before the current claim period.

Iowa Code section 96.6(2) provides, in pertinent part:

Filing – determination – appeal.

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.

Iowa Code section 96.5(1)g 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. But the individual shall not be disqualified if the department finds that:

...

g. The individual left work voluntarily without good cause attributable to the employer under circumstances which did or would disqualify the individual for benefits, except as provided in paragraph "a" of this subsection but, subsequent to the leaving, the individual worked in and was paid wages for insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The claimant's appeal is untimely. However, he has requalified for benefits by earning ten times his weekly benefit amount in insured wages following a disqualifying separation and before filing the claim for benefits. Accordingly, benefits are allowed, provided he is otherwise eligible, and the account of the employer (account number 303492) shall not be charged.

DECISION:

The January 10, 2020, reference 02, unemployment insurance decision is modified in favor of the appellant. The appeal in this case was not timely, but the claimant has requalified for benefits since the separation and before the current claim. Benefits are allowed, provided the claimant is otherwise eligible, and the account of the employer (account number 303492) shall not be charged



Stephanie R. Callahan
Administrative Law Judge

February 14, 2020
Decision Dated and Mailed

src/scn