

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**MELISSA L GOFORTH**  
Claimant

**APPEAL NO. 07A-UI-04757-MT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CHRISTIAN OPPORTUNITY CENTER**  
Employer

**OC: 12/10/06 R: 02  
Claimant: Respondent (4)**

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

**STATEMENT OF THE CASE:**

Employer filed an appeal from a decision of a representative dated May 1, 2007, reference 02, which held claimant eligible for unemployment insurance benefits. After due notice, a telephone conference hearing was scheduled for and held on May 24, 2007. Employer participated by Angela Smith, Human Resource Director. Claimant failed to respond to the hearing notice and did not participate. Exhibit One was admitted into evidence.

**ISSUES:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

The second issue in this matter is whether the employer's protest is timely.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on May 11, 2006. Claimant quit for new and better employment. Claimant worked at the new and better job.

Employer did not receive the Notice of Claim dated December 14, 2006. Employer filed its protest after receipt of a quarterly Statement of Charges. Employer filed promptly on April 27, 2007.

**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 of new and better employment. This is not a quit for cause attributable to employer. However claimant is qualified for benefits because she took better employment. Employer's account shall not be charged.

Iowa Code section 96.5-1-a 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. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

871 IAC 24.28(5) provides:

Voluntary quit requalifications and previously adjudicated voluntary quit issues.

(5) The claimant shall be eligible for benefits even though the claimant voluntarily quit if the claimant left for the sole purpose of accepting an offer of other or better employment, which the claimant did accept, and from which the claimant is separated, before or after having started the new employment.

The second issue concerns the timeliness of the employer's protest.

Iowa Code Section 96.6-2 provides in pertinent part:

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 protest is timely because employer protested immediately upon actual notice of the claim. Employer did not receive the prior notice of claim and cannot be held responsible for the response dates.

**DECISION:**

The decision of the representative dated May 1, 2007, reference 02, is modified. Employer's account shall not be charged with benefits paid in this matter as claimant quit for better work.

Employer's protest is timely. Unemployment insurance benefits are allowed, provided claimant is otherwise eligible.

---

Marlon Mormann  
Administrative Law Judge

---

Decision Dated and Mailed

mdm/css