

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**TITUS K CONNALLY**  
Claimant

**WINNEBAGO INDUSTRIES**  
Employer

**APPEAL 19A-UI-06524-AW-T**  
**ADMINISTRATIVE LAW JUDGE**  
**DECISION**

**OC: 04/28/19**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5(1) – VQ – Voluntary quitting  
Iowa Code § 96.6(2) – Filing – Timely appeal  
Iowa Admin. Code r. 871-24.25(2) – VQ – Moved

**STATEMENT OF THE CASE:**

Claimant/appellant filed an appeal from the August 5, 2019 (reference 02) unemployment insurance decision that denied benefits. The parties were properly notified of the hearing. A telephone hearing was held on September 11, 2019, at 11:00 a.m. Claimant participated. Employer participated through Susan Gardner, Human Resources Supervisor, and Nick Krein, Human Resources Generalist. Employer's Exhibit 1 was admitted. Official notice was taken of the administrative record.

**ISSUES:**

Whether claimant filed a timely appeal.  
Whether claimant's separation was a voluntary quit without good cause attributable to employer.

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The unemployment insurance decision was mailed to claimant at the correct address on August 5, 2019. The decision states that it will become final unless an appeal is postmarked by August 15, 2019. Claimant received the decision on August 16, 2019. (Claimant Testimony) Claimant appealed the decision online on August 17, 2019.

Claimant was employed full-time as a Production Assembler and Fabricator from January 4, 2016 until his employment with Winnebago Industries ended on July 11, 2019. (Gardner Testimony) Claimant's schedule was Monday through Friday from 2:00 p.m. until 10:00 p.m. (Claimant Testimony)

In April 2019, claimant informed his supervisor that he intended to quit his position July 12, 2019. (Claimant Testimony) The supervisor had claimant complete a Voluntary Quit Notice on which claimant listed the reason for leaving his job as relocation. (Exhibit 1) Claimant planned to relocate to Alabama where he is from and his family is located. (Claimant Testimony)

Claimant testified that the reason for his relocation was an injury he sustained at the workplace and a reduction in the hours per week of work. (Claimant Testimony) In March 2019, claimant injured his thumb and lower back when he slipped and fell on ice at the workplace. (Claimant Testimony) Claimant received medical attention. (Claimant Testimony) Claimant was given the following restrictions: no bending, no pulling, no pushing and no lifting over 10 pounds. (Claimant Testimony) Employer accommodated claimant's work restrictions. (Claimant Testimony) The restrictions were lifted in April 2019. (Claimant Testimony) Claimant worked 40 hours per week or more from January 2019 through the end of April 2019. (Gardner Testimony) Claimant's hours worked per week were reduced beginning the first week of May 2019 due to lack of work. (Gardner Testimony) During claimant's exit interview on July 9, 2019, claimant told employer that he was relocating to Alabama to take care of his properties. (Krein Testimony) Claimant did not reference injury, reduction in hours or safety concerns as the reason for his resignation. (Krein Testimony)

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

For the reasons that follow, the administrative law judge concludes the claimant's appeal is timely.

Iowa Code section 96.6(2) provides that "[u]nless 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."

The Iowa Supreme Court has declared that there is a mandatory duty to file appeals from representatives' decisions within the time allotted by statute, and that the administrative law judge has no authority to change the decision of a representative if a timely appeal is not filed. *Franklin v. IDJS*, 277 N.W.2d 877, 881 (Iowa 1979). Compliance with appeal notice provisions is jurisdictional *unless* the facts of a case show that the notice was invalid. *Beardslee v. IDJS*, 276 N.W.2d 373, 377 (Iowa 1979); see also *In re Appeal of Elliott* 319 N.W.2d 244, 247 (Iowa 1982). The question in this case thus becomes whether the appellant was deprived of a reasonable opportunity to assert an appeal in a timely fashion. *Hendren v. IESC*, 217 N.W.2d 255 (Iowa 1974); *Smith v. IESC*, 212 N.W.2d 471, 472 (Iowa 1973).

The record in this case shows that claimant received the decision after the appeal deadline. Therefore, claimant did not have a reasonable opportunity to file a timely appeal. Claimant filed his appeal the day after he received the decision. Claimant's appeal is timely.

For the reasons that follow, the administrative law judge concludes claimant voluntarily quit his employment without good cause attributable to employer. Benefits are denied.

Iowa Code § 96.5(1) provides: An individual shall be disqualified for benefits, if the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

A voluntary quitting means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer and requires an intention to terminate the employment. *Wills v. Emp't Appeal Bd.*, 447 N.W. 2d 137, 138 (Iowa 1989). A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980); *Peck v. Emp't Appeal Bd.*, 492 N.W.2d 438 (Iowa Ct. App. 1992). Claimant has the burden of proving that the voluntary leaving was for good cause

attributable to the employer. Iowa Code § 96.6(2). "Good cause" for leaving employment must be that which is reasonable to the average person, not the overly sensitive individual or the claimant in particular. *Uniweld Products v. Indus. Relations Comm'n*, 277 So.2d 827 (Fla. Dist. Ct. App. 1973).

Iowa Admin. Code r. 871-24.25(2) 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:

(2) The claimant moved to a different locality.

It is the duty of the administrative law judge, as the trier of fact, to determine the credibility of witnesses, weigh the evidence and decide the facts in issue. *Arndt v. City of LeClaire*, 728 N.W.2d 389, 394-395 (Iowa 2007). The administrative law judge may believe all, part or none of any witness's testimony. *State v. Holtz*, 548 N.W.2d 162, 163 (Iowa App. 1996). In assessing the credibility of witnesses, the administrative law judge should consider the evidence using his or her own observations, common sense and experience. *Id.* In determining the facts, and deciding what testimony to believe, the fact finder may consider the following factors: whether the testimony is reasonable and consistent with other evidence you believe; whether a witness has made inconsistent statements; the witness's appearance, conduct, age, intelligence, memory and knowledge of the facts; and the witness's interest in the trial, their motive, candor, bias and prejudice. *Id.*

The findings of fact show how I have resolved the disputed factual issues in this case. I assessed the credibility of the witnesses who testified during the hearing, considering the applicable factors listed above, and using my own common sense and experience. I find the claimant's testimony regarding the reason for his resignation to lack credibility. Claimant stated he was resigning due to relocation both on his Voluntary Quit Notice on April 17, 2019 and during his exit interview on July 9, 2019. The other reasons that claimant offered during the hearing do not withstand scrutiny. Claimant cited his injury as a cause for his resignation, but his employer was accommodating his work restrictions and the work restrictions were only in place for one month. Claimant also alleged that a reduction in work hours caused his resignation; however, claimant's hours were not reduced until after he submitted his resignation.

Claimant's resignation is both evidence of his intention to sever the employment relationship and an overt act of carrying out his intention. Claimant voluntarily quit his employment. The reason for claimant's resignation was relocation, which does not constitute good cause. Claimant has not met his burden of proving he voluntarily quit his employment for good cause attributable to employer. Benefits are denied.

**DECISION:**

Claimant's appeal was timely. The August 5, 2019 (reference 02) unemployment insurance decision is affirmed. Claimant voluntarily quit his employment without good cause attributable to employer. Benefits are denied.

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Adrienne C. Williamson  
Administrative Law Judge  
Unemployment Insurance Appeals Bureau  
Iowa Workforce Development  
1000 East Grand Avenue  
Des Moines, Iowa 50319-0209  
Fax (515)478-3528

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Decision Dated and Mailed

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