

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

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

RAZACK LIAMIDI
Claimant

APPEAL NO. 13A-UI-08124-SWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

KIRKWOOD COMMUNITY COLLEGE
- AREA 1
Employer

OC: 06/18/13
Claimant: Appellant (4-R)

Section 96.5-1 - Voluntary Quit of Part Time Job
Section 96.6-2 - Timeliness of Appeal

STATEMENT OF THE CASE:

The claimant appealed an unemployment insurance decision dated June 18, 2013, reference 01, that concluded the claimant voluntarily quit employment without good cause attributable to the employer. A telephone hearing was held on August 15, 2013. The parties were properly notified about the hearing. The claimant participated in the hearing with an interpreter. Sheri Hlavacek participated in the hearing on behalf of the employer.

ISSUES:

Did the claimant file a timely appeal?

Did the claimant voluntarily quit part-time employment without good cause attributable to the employer?

FINDINGS OF FACT:

The claimant worked part time for the employer as a custodian from November 13, 2012, to April 11, 2013. When he hired, he was informed that he could be required to work on weekends.

When the claimant's supervisor informed him in April 2013 that he needed to work on weekends, the claimant declined to work on weekends. The supervisor told him to think about his decision. The claimant then said he could not work on weekends and quit his employment. The claimant was going to school and wanted the weekends to work on his schoolwork.

The claimant filed a new claim for unemployment insurance benefits with effective date of June 18, 2013. The claimant had wages during his base period from his employment with Schenker Logistics and the employer as follows: 1ST Quarter 2012 – \$4,163.29 (Schenker Logistics), 2ND Quarter 2012 – \$6,479.26 (Schenker Logistics), 3RD Quarter 2012 – \$733.46 (Schenker Logistics), 4TH Quarter 2012 – \$630.00 (Kirkwood Community College).

An unemployment insurance decision was mailed to the claimant's last known address of record on June 18, 2013. The decision concluded he voluntarily quit employment without good cause attributable to the employer and stated the decision was final unless a written appeal was postmarked or received by the Appeals Section by June 28, 2013.

The claimant received the decision within the ten-day period for appealing the decision. He filed a written appeal on July 8, 2013, which is after the time period for appealing had expired. The claimant delayed in filing his appeal because he came to the local office to file his appeal but was informed that he would have to get an appointment and July 8, 2013, was the earliest date for the appointment.

REASONING AND CONCLUSIONS OF LAW:

The first issue in this case is whether the claimant filed a timely appeal.

The law states that an unemployment insurance decision is final unless a party appeals the decision within ten days after the decision was mailed to the party's last known address. Iowa Code § 96.6-2.

The failure to file a timely appeal was due to an Agency error in requiring him to wait for an appointment to file his appeal, which under 871 IAC 24.35(2) excuses the delay in filing an appeal. The appeal is deemed timely.

The unemployment insurance law disqualifies claimants who voluntarily quit employment without good cause attributable to the employer or who are discharged for work-connected misconduct. Iowa Code § 96.5-1 and 96.5-2-a.

The findings of fact show how I resolved the disputed factual issues in this case by carefully assessing of the credibility of the witnesses and reliability of the evidence and by applying the proper standard and burden of proof. I do not believe the claimant's testimony that he first declined to work on weekends and later told the supervisor that he would work on the weekend but was fired by the supervisor. This testimony makes no sense because the supervisor told the claimant he needed to work on weekends and when he declined, told him to think about it. There would be no reason for the supervisor to fire him when he had agreed to work weekends as the supervisor had requested. The claimant quit his employment.

871 IAC 24.27 provides that a claimant who voluntarily quits part-time employment without good cause and has not requalified for benefits, yet is otherwise monetarily eligible for benefits based on wages paid by the regular or other base period employers, shall not be disqualified for voluntarily quitting the part-time employment. Instead, the benefits payments will be made based on the wages from the other employers, and the part-time employer's account will not be charged for benefits paid.

The claimant was told when he was hired that he could be required to work on weekends. He voluntarily quit employment without good cause attributable to the employer. The job, however, was part time, and he has sufficient wages from other employers to qualify to receive unemployment insurance benefits. Pursuant to the rule, the employer's account will not be subject to charge for benefits paid to the claimant. The matter of reducing the claimant's maximum benefit amount by \$210.00 based on removing the wages from the employer is remanded to the Agency.

DECISION:

The unemployment insurance decision dated June 18, 2013, reference 01, is modified in favor of the claimant. The claimant is qualified to receive unemployment insurance benefits, provided he is otherwise eligible. The employer will be exempt from charge for benefits paid to the claimant. The matter of reducing the claimant's maximum benefit amount by \$210.00 based on removing the wages from the employer is remanded to the Agency.

Steven A. Wise
Administrative Law Judge

Decision Dated and Mailed

saw/css