

IOWA WORKFORCE DEVELOPMENT  
Unemployment Insurance Appeals Section  
1000 East Grand—Des Moines, Iowa 50319  
DECISION OF THE ADMINISTRATIVE LAW JUDGE  
68-0157 (7-97) – 3091078 - EI

MARCIA A BECKER  
916 E 9<sup>TH</sup> ST  
SOUTH SIOUX CITY NE 68776

DOLGENCORP INC  
DOLLAR GENERAL  
C/O COMPENSATION TAX MANAGEMENT  
PO BOX 34150  
LOUISVILLE KY 40232

RICHARD STURGEON  
PO BOX 3372  
SIOUX CITY IA 51102-3372

Appeal Number: 05A-UI-03359-A  
OC: 02/20/05 R: 01  
Claimant: Respondent (1)

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party appeal to the Employment Appeal Board by submitting either a signed letter or a signed written Notice of Appeal, directly to the **Employment Appeal Board, 4<sup>th</sup> Floor—Lucas Building, Des Moines, Iowa 50319.**

The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday.

STATE CLEARLY

1. The name, address and social security number of the claimant.
2. A reference to the decision from which the appeal is taken.
3. That an appeal from such decision is being made and such appeal is signed.
4. The grounds upon which such appeal is based.

YOU MAY REPRESENT yourself in this appeal or you may obtain a lawyer or other interested party to do so provided there is no expense to Workforce Development. If you wish to be represented by a lawyer, you may obtain the services of either a private attorney or one whose services are paid for with public funds. It is important that you file your claim as directed, while this appeal is pending, to protect your continuing right to benefits.

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(Administrative Law Judge)

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(Decision Dated & Mailed)

871 IAC 26.9(8) – Dismissal of Appeal

STATEMENT OF THE CASE:

Dollar General filed a timely appeal from an unemployment insurance decision dated March 23, 2005, reference 01, which allowed benefits to Marcia A. Becker. Before a hearing could be scheduled in the matter, the claimant submitted interrogatories to be answered by the employer. The employer did submit answers. A pre-hearing conference was held on June 16, 2005, in which the employer's participant stated that he had not received the interrogatories from his unemployment insurance representative, Compensation Tax Management. The administrative law judge caused another set of the interrogatories to be submitted directly to the employer with instructions that the interrogatories be answered or the appeal would be dismissed. Due notice was issued for a hearing to be held in Sioux City, Iowa on July 12, 2005.

The employer did not respond to the hearing notice. The claimant's representative advised the administrative law judge that the employer had not submitted answers to the interrogatories.

#### FINDINGS OF FACT:

Having examined all matters of record, the administrative law judge finds: The employer is in default for having failed repeatedly to answer interrogatories submitted by the claimant as allowed by the Iowa Administrative Procedure Act.

#### REASONING AND CONCLUSIONS OF LAW:

The question is whether the employer's appeal should be dismissed. The administrative law judge concludes that it should.

The Iowa Administrative Procedure Act, Chapter 17A of the Code of Iowa, specifically allows parties to contested case proceedings such as this to engage in pre-hearing discovery as if this were a civil matter in the Iowa District Court. Iowa Workforce Development has adopted rules filed at 871 IAC 26.9 governing pre-hearing discovery. Subsection 8 of the rule provides for sanctions against a party which fails to properly respond to discovery requests. Having reviewed all matter of record, the administrative law judge concludes that the claimant's interrogatories were appropriate for this type of matter and that the employer has without explanation failed to respond. Its appeal must be dismissed.

#### DECISION:

The unemployment insurance decision dated March 23, 2005, reference 01, remains in effect as if no appeal had been filed. The claimant is entitled to receive unemployment insurance benefits, provided she is otherwise eligible.

kjw/kjw