

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

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

**JESSICA F SANDERS**  
Claimant

**APPEAL NO: 09A-UI-17133-DWT**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**ACCESS DIRECT TELEMARKETING INC**  
Employer

**OC: 10/04/09**  
**Claimant: Appellant (1)**

Section 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

The claimant appealed a representative's October 30, 2009 decision (reference 01) that concluded she was not qualified to receive benefits, and the employer's account would not be charged because she voluntarily quit her employment for reasons that do not qualify her to receive benefits. A telephone hearing was held on December 17, 2009. The claimant participated in the hearing. The employer responded to the hearing notice, but the employer's witness was not available for the hearing. Based on the evidence, the arguments of the claimant, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**ISSUE:**

Did the claimant voluntarily quit her employment for reasons that qualify her to receive benefits?

**FINDINGS OF FACT:**

The claimant started working for the employer on October 29, 2007. She worked as a full-time telemarketer. Before the claimant submitted her resignation, she contacted a competitor, TLC, about a job opening. The claimant learned TLC was hiring. The claimant understood that if a person worked for the employer, TLC would hire that person.

When the claimant submitted her resignation, TLC had not offered her a job. The claimant quit in part because she planned to work for TLC who paid more and the claimant thought provided more job stability. The claimant also quit because she heard rumors that some of her co-workers had H1N1. The claimant was pregnant and recently learned pregnant women were at a health high risk if they contracted this flu.

The claimant did not work for the employer after late June. The claimant did not start working for TLC until September, after she received the H1N1 vaccination.

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

A claimant is not qualified to receive unemployment insurance benefits if she voluntarily quits employment without good cause attributable to the employer. Iowa Code § 96.5-1. When a claimant quits, she has the burden to establish she quit for reasons that qualify her to receive benefits. Iowa Code § 96.6-2.

If a claimant quits because she has accepted another job, she is not disqualified from receiving benefits. Iowa Code § 96.5-1-a. This law does not apply to the claimant because when she quit she had not been offered another job nor had she accepted another job. The fact the claimant started working for another employer in September when she quit in June does not meet the requirements of Iowa Code § 96.5-1-a.

The claimant also quit because she was concerned about getting H1N1 while she was pregnant. While the claimant's concerns were valid, 871 IAC 24.26(6)(b) does not apply here because she did not have H1N1 when she quit. Additionally, the claimant did not present adequate health reasons to justify her employment separation. The claimant admitted her physician did not suggest or advise that she quit her employment.

The fact the claimant heard rumors that co-workers had H1N1 does not mean the claimant would contract this from them. The evidence does not establish that the claimant quit because she had H1N1 only that she did not want to expose herself to situations where she could possibly contract it. While this is a compelling personal reason for quitting, this reason does not qualify the claimant to receive benefits. Therefore as of October 4, 2009, the claimant is not qualified to receive benefits.

The claimant asked that instead of earning ten times her weekly benefit amount to requalify, she be allowed to requalify after earning five times her weekly benefits amount. Administrative law judges must apply the law as written. Since the law does not allow for any variance, the claimant will be required to earn ten times her weekly benefit amount to requalify like everyone else.

## **DECISION:**

The representative's October 30, 2009 decision (reference 01) is affirmed. The claimant voluntarily quit her employment for compelling personal reasons that do not qualify her to receive benefits. The claimant is disqualified from receiving unemployment insurance benefits as of October 4, 2009. This disqualification continues until she has been paid ten times her weekly benefit amount for insured work, provided she is otherwise eligible. The employer's account will not be charged.

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Debra L. Wise  
Administrative Law Judge

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Decision Dated and Mailed

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