

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

SABRINA J CARPENTER
307 S 1ST ST #4
MARSHALLTOWN IA 50158-2872

ACCESS DIRECT TELEMARKETING INC
c/o TALX UC EXPRESS
PO BOX 6007
OMAHA NE 68106-6007

Appeal Number: 06A-UI-05810-CT
OC: 04/30/06 R: 02
Claimant: Appellant (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, 4th 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.

(Administrative Law Judge)

(Decision Dated & Mailed)

Section 96.5(1) – Voluntary Quit

STATEMENT OF THE CASE:

Sabrina Carpenter filed an appeal from a representative's decision dated May 30, 2006, reference 03, which allowed benefits from May 3 through June 3, 2006, but not thereafter, based on her separation from Access Direct Telemarketing, Inc. (Access). After due notice was issued, a hearing was held by telephone on June 21, 2006. Ms. Carpenter participated personally. The employer participated by Brian Luse, Program Manager and David Coveney, Center Manager. The employer was represented by Peg Heenan of TALX UC eXpress.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having reviewed all of the evidence in the record, the administrative law judge finds: Ms. Carpenter was employed by Access from April 18, 2005 until May 3, 2006. She was last employed as a telephone sales representative and worked approximately 30 hours each week. On May 3, she gave written notice that she was quitting effective June 3, 2006 in order to attend school. Ms. Carpenter did not give any other reason for her decision to quit.

Ms. Carpenter was discharged prior to the effective date of her resignation. Her discharge was based on what the employer considered violations of policy. There were three incoming calls that Ms. Carpenter failed to respond to. She acknowledged being at fault for not responding to one of the calls. She was assisting a co-worker at the time but had not given any indication that she was not available to take calls. She did not respond to the remaining two calls because her computer screen indicated the callers had hung up. Ms. Carpenter did not have any history of not responding to calls.

REASONING AND CONCLUSIONS OF LAW:

At issue in this matter is whether Ms. Carpenter was separated from employment for any disqualifying reason. She resigned effective June 3, 2006 to attend school. An individual who voluntarily quits employment is disqualified from receiving job insurance benefits unless the quit was for good cause attributable to the employer. Iowa Code section 96.5(1). An individual who quits employment to attend school is presumed to have quit for no good cause attributable to the employer. See 871 IAC 24.25(26). Accordingly, benefits are denied as of June 4, 2006.

The only reason Ms. Carpenter gave the employer for quitting was her plan to attend school. During the hearing, she indicated she also quit because of how she was treated by her supervisor, Brian Luse. However, she testified that, but for her plan to attend school, she would have remained in the employment. It does not appear that Mr. Luse's treatment of her was part of the reason for quitting. Moreover, the fact that he took over supervision of some individuals who had been working under Ms. Carpenter would not constitute good cause for quitting.

An individual who is discharged prior to the effective date of resignation is entitled to benefits from the last day worked until the effective date of the resignation. See 871 IAC 24.25(38). Although Ms. Carpenter was discharged on May 3, the evidence does not establish deliberate and intentional misconduct within the meaning of Iowa Code section 96.5(2)a. It is true that she missed three calls on May 3. However, she was culpable with respect to only one of the calls. Ms. Carpenter was credible in her testimony that her computer screen indicated the caller had hung up. Therefore, there would seemingly be no reason for her to give a greeting. Inasmuch as Ms. Carpenter did not have a history of missing or avoiding calls, the administrative law judge is inclined to view her failures of May 3 as isolated instances of negligence. Because the discharge was not predicated on deliberate and intentional misconduct, no disqualification is imposed.

DECISION:

The representative's decision dated May 30, 2006, reference 03, is hereby affirmed. Ms. Carpenter was discharged prior to the effective date of her resignation but not for disqualifying misconduct. Benefits are allowed effective April 30, 2006, provided she satisfies all other conditions of eligibility. Benefits are withheld effective June 4, 2006 and until such time as Ms. Carpenter has worked in and been paid wages for insured work equal to ten times her weekly job insurance benefit amount, provided she satisfies all other conditions of eligibility.

cfc/cs