

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

ERIN D CANFIELD
506 BOYD ST
DES MOINES IA 50313-4819

ACCESS DIRECT TELEMARKETING INC
c/o JOHNSON AND ASSOCIATES
PO BOX 6007
OMAHA NE 68106-0007

Appeal Number: 06A-UI-02778-HT
OC: 03/06/05 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) – Quit

STATEMENT OF THE CASE:

The claimant, Erin Canfield, filed an appeal from a decision dated February 28, 2006, reference 04. The decision disqualified her from receiving unemployment benefits. After due notice was issued a hearing was held by telephone conference call on March 28, 2006. The claimant participated on her own behalf. The employer, Access Direct, participated by Administrative Assistant Gentry Cox and Program Manager Jason Eischeid and was represented by TALX in the person of Dawn Gibson.

FINDINGS OF FACT:

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Erin Canfield was employed by Access Direct from October 17 until November 18, 2005. She was a full-time telephone sales representative. At the time of hire the claimant received a copy of the employee handbook which contains the employer's attendance policy. It specifically states an employee who is no-call/no-show to work for three consecutive days will be considered a voluntary quit.

Ms. Canfield's last day of work was November 15, 2005. She was no-call/no-show to work on November 16, 17 and 18, 2005. She had to attend a trial as a witness/victim but did not make arrangement in advance to take the time off or have the county attorney issue a subpoena to release her from work. On November 14, 2005, she talked to her supervisor who told her she had not worked for the company long enough to have the time off. She did not appear for work or call in for the days of the trial. When she called back on November 21, 2005, to say she would be able to return to work she was told she no longer had a job.

REASONING AND CONCLUSIONS OF LAW:

The issue is whether the claimant is disqualified. The judge concludes she is.

Iowa Code Section 96.5-1 provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

871 IAC 24.25(4) 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:

- (4) The claimant was absent for three days without giving notice to employer in violation of company rule.

The claimant knew she had not been granted the time off from the employer as requested. So she simply did not come to work or call in for three days. Under the provisions of the above Administrative Code section, three days' no-call/no-show to work is considered a voluntary quit without good cause attributable to the employer. The claimant is disqualified.

DECISION:

The representative's decision of February 28, 2006, reference 04, is affirmed. Erin Canfield is disqualified and benefits are withheld until she has earned ten times her weekly benefit amount provided she is otherwise eligible.

bgh/s