

**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**

**SATIRA A DUNCAN-BURRELL  
1516 EVERGREEN #E5  
DES MOINES IA 50320**

**YOUNG MENS CHRISTIAN ASSN  
101 LOCUST ST  
DES MOINES IA 50309**

**Appeal Number: 05A-UI-03765-DWT  
OC: 03/13/05 R: 02  
Claimant: Appellant (1)**

**This Decision Shall Become Final**, unless within fifteen (15) days from the date below, you or any interested party request the Appeals Section to reopen the record at the address listed at the top of this decision or 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)

Section 96.5-1 – Voluntary Quit

STATEMENT OF THE CASE:

Satira A. Duncan-Burrell (claimant) appealed a representative's March 31, 2005 decision (reference 01) that concluded she was not qualified to receive unemployment insurance benefits, and the account of Young Men's Christian Association (employer) would not be charged because the claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. A telephone hearing was scheduled on May 2, 2005 at 8:00 a.m. Since there was no record that the claimant responded to the hearing notice, she was not called to participate in the hearing. Stacy Haviland appeared on the employer's behalf.

The claimant contacted the Appeals Section at 8:35 a.m. on May 2. When the claimant called, the hearing had already been closed and the employer had been excused. The claimant made a request to reopen the hearing. Based on the claimant's request to reopen the hearing, the

administrative file, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law and decision.

ISSUES:

Is there good cause to reopen the hearing?

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

FINDINGS OF FACT:

The claimant started working for the employer in March 2000. The claimant worked full time.

During her employment, the claimant demonstrated her dedication to the employer. In February 2004, the claimant did not sue the employer after the claimant injured herself as she came down some icy stairs to enter the employer's building. In December 2004, the claimant had surgery for another medical concern. The claimant returned to work in December 2004 while her supervisors were on vacation but before her doctor released her.

On February 28, 2005, the claimant resigned after the human resource director commented about something being suspicious. The claimant did not present any information that her doctor advised her to resign.

At 8:00 a.m. on May 2, 2005, there was no record that the claimant had contacted the Appeals Section and provided the phone number at which to contact her. The employer, however, had responded to the hearing notice and contacted the Appeals Section before the May 2 scheduled hearing. By the time the claimant called the Appeals Section at 8:35 a.m., the hearing had been closed and the employer's witness had been excused.

Even though the claimant asserted she had called the Appeals Section on April 14 and provided the phone number at which she could be contacted for the hearing, she did not have a control number and did not know about information that is given to parties when they call in and provide their phone numbers. The Appeals staff reviewed records they keep and none of these records indicated the claimant had called on April 14, 2005.

REASONING AND CONCLUSIONS OF LAW:

If a party responds to a hearing notice after the record has been closed and the party who participated at the hearing is no longer on the line, the administrative law judge can only ask why the party responded late to the hearing notice. If the party establishes good cause for responding late, the hearing shall be reopened. The rule specifically states that failure to read or follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. 871 IAC 26.14(7)(b) and (c).

The facts do not support the claimant's assertion that she called the Appeals Section on April 14 to provide the phone number at which she could be contacted for the hearing. A preponderance of the evidence indicates the claimant did not contact the Appeals Section until May 2 at 8:35 a.m. By the time the claimant called, the hearing had been closed. The claimant's failure to follow the instructions on the hearing notice does not constitute good cause to reopen the hearing. Therefore, the claimant's request to reopen the hearing is denied.

A claimant is not qualified to receive unemployment insurance benefits she voluntarily quits employment without good cause attributable to the employer. Iowa Code §96.5-1. The claimant voluntarily quit her employment on February 28, 2005. When a claimant quits, she has the burden to establish she quit with good cause attributable to the employer. Iowa Code §96.6-2.

The record indicates the claimant quit after the human resource director questioned her about a matter. Even though the claimant may have been a loyal and dedicated employee, the record does not establish that the claimant quit for reasons that qualify her to receive unemployment insurance benefits. The claimant's assertion that she quit because she needed to get away from the stress of the job may be true but there is nothing in the record indicating that prior to February 28 the claimant informed the employer she had some health-related concerns that may result in her resignation unless the employer could make some accommodations. 871 IAC 24.26(6)(b). As of March 13, 2005, the claimant is not qualified to receive unemployment insurance benefits.

**DECISION:**

The claimant's request to reopen the hearing is denied. The representative's March 31, 2005 decision (reference 01) is affirmed. The claimant voluntarily quit her employment for reasons that do not qualify her to receive unemployment insurance benefits. The claimant is disqualified from receiving unemployment insurance benefits as of March 13, 2005. 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.

dlw/pjs